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POLITICAL SCIENCE QUARTERLY

"THE MENACE OF THE YEARS"

A CARTOON at the turn of the year represented Father Time, in search of a New Year for 1939, as looking over the naked infants with especial care because there had been so much complaint about his more recent selections. Though not unmoved by human distress, the old Patriarch, thus presented, keeps the future beyond human control. But there is another allegory, more recently in use, which challenges the prerogative of Father Time thus alone to make the choice. This latter figure represents the present as a fertile soil in which there lie the seeds, not only of the unknown particular future that will ultimately materialize, but also the seeds of unnumbered other possible futures, from which it follows, of course, that in so far as we have learned the arts of social husbandry it is for us to say which of these potential and problematic futures it is that in the fulness of time will actually come to pass. Thus encouraged, some of our social husbandmen, not satisfied with Father Time's dispensations and trenching unduly, it may be, upon his dominion, have made ambitious designs on the future, to the end that when it does arrive it may be just the kind they want, presumably a sort of formal garden laid out in conformity with elaborately preconceived arrangements and without any tares and thistles.

But the agricultural analogy may oversimplify the problem. Most plans for the future are directed toward the elimination of present evils by avoiding hereafter the repetition of past errors which now seem to have caused them. But yesterday's errors might not be errors tomorrow, and yesterday's decision that turned out disastrously may in the light of yesterday's evidences have been the correct decision to make notwithstand-

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ing. A player's post-mortem will often discover how he could have won the game, but he now has new opponents and a different hand to play. In taking chances on the hazards of living, many a good calculation goes wrong, and history is full of the pathos that lies, sometimes in misguided efforts at restoration of old satisfactions, and sometimes in elaborate preparation against past dangers that do not return. Recurring evils are never the same. If not a walled city then it is a hitching post that testifies to the general flux.

The mere recognition of mistakes, more often than not, depends upon a retrospective view. A man on horseback rode into a village for a physician to attend a friend injured in an accident. In haste to deliver his message, the rider left his horse unhitched to graze on the physician's lawn rather than take time to fasten him. But the injured man died anyway before the physician could reach him and meanwhile the loose horse had taken fright and injured some one else. As the matter turned out the horse should have been tied, but the incident is not a safe guide for future conduct. A man shot at a dog, intending to kill him. But the dog was only wounded and in a panic of fright and pain rushed against the man's neighbor who was injured by the impact. But this does not mean, either that shooting a dog is a good way to do physical hurt to one's neighbor, or that it is not an effective way to kill a dog. These authentic instances of situations that in the retrospect turned out to have been misjudged are but illustrations of the unnumbered ways in which the fortuitous each day intrudes itself upon every man's affairs. It is not in the rules of the game to place one's bets after the dice have fallen, and whether the ant's or the grasshopper's is the sounder wisdom will often depend on the event.

A social plan is exposed to similar hazards of accident and chance. Such a plan assumes that we foresee a future not to our liking, if matters are left to drift by themselves without a plan. But reading the future is an uncertain venture. The "shape of things to come" troubled men of old as it troubles them now. The late Justice Cardozo spoke of an "unplumbed future, trackless as the sea", and Professor Einstein has com-

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pared the making of predictions to shooting in the dark in a country where there are very few birds. Soothsayers and oracles, prophets, palm readers, and astrologers, and most of the old arts and techniques of divination, as well as its artists and its technicians, are long since in the discard. If our travels through time were in different directions, we could exchange information with those we meet on the way about what each should expect further along his own road. Or if we had a memory that works both ways, such as that boasted by the White Queen who could remember best "things that happened the week after next", such a memory might guide our course. But memory works backward only and ours is a one-way journey in the other direction.

It is true, there is a certain relentlessness in the order of nature, and a certain harmony and regularity of recurrence, that encourage predictions for the future on the basis of the past. Natural laws, we say, do not change; but even physical nature enjoys a large amount of freedom, which it not infrequently indulges with unpredictable abandon. The stars observe their courses; but earthquake and fog come when they will. The seasons, though they come in turn, bring floods and droughts that take us by surprise. The diurnal sun repeats itself and so do the tides, but the wind still bloweth where it listeth. "Nothing is more treacherous than the peace of nature."

In human affairs the foreseeable is still less dependable, though fortunately even here we are not left entirely without criteria for prediction. Accumulations out of the past we take along with us as we go and not unreasonably expect to have them when we arrive. The past and present descend into the future, in some part like an ancestral blessing and in other part like an inveterate hereditary disease. Old habits continue to condition conduct, and old thought grooves continue to guide the mind. Continuity with the past, said Mr. Justice Holmes, though not a duty, is a necessity nevertheless. Each past incident, we are told, conditions the time to come for good or for evil. By intestate succession the past thus leaves to the future both its character and its goods.

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Our common speech-wisdom, whether about chips off old blocks or silk purses and sows' ears, is full of the materials of which predictions are made. As a man sows, so shall he also reap. Coming events cast their shadows before. The sins of the fathers who eat sour grapes are visited upon the children whose teeth are put on edge. History repeats itself. Experience is a great teacher; and so on. Whether as lessons hammered from the anvil of a costly human past, or as flashes of insight that come to more sensitive minds, these and similar thoughts are thus put into neat phrase and sententious old maxim to teach those not unwilling to learn from others who have gone before.

But maxims and adages and popular proverbs circulate on their pith as well as their wisdom. Ease on the tongue gives them currency, as well as fidelity to the truth. The lines they draw between truth and error are but careless approximations. Not infrequently they travel in contradictory pairs, each of them telling only a half truth. Along with chips off old blocks, for example, we may have degenerate sons coming from noble sires, or perhaps instead, diamonds in the rough, or yet again, it may be the mountain that labored and brought forth a mouse. The history that repeats itself makes drastic changes in the new editions, and folk-wisdom itself, the very source of these insights into the future, betrays its own lack of confidence when it warns us not to count our chickens before they are hatched, for we know not what a day may bring forth. The shadows cast by coming events, at their worst, are but ghostly apparitions signifying nothing, while at their best they are grotesque and disproportioned images, like trees coming out of a fog.

Nor can it be said that such folk-wisdom suffers greatly by comparison with science in the matter of foretelling the future. Laws of averages give statistical information about certain social probabilities, but even in these limited particulars the individual has a way of his own. Mathematics and logic, that bind the face of nature with steel bands, give negative information on things that cannot be, but, for selection among the infinite variety of unforbidden futures, they are fallible and

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partial minor aids. Presumptions of continuity and inductive inferences from the past, though they may indicate the odds, do not make the decisions on what tomorrow will be. In heredity, we assume that like produces like, but variations, mutations, sports, do frequent violence to the rule. No generation, it has been said, merely reproduces either itself or its ancestry. By the laws of heredity human beings beget other human beings, but by the same laws man has descended from the fishes and, at one stage in his development, still carried the gill slits of his ancestry. Anything can happen. In social affairs, it was the *Pax Romana* that fathered the medieval darkness, the Coolidge prosperity that stood sire to the Hoover depression, and the Roosevelt depression, recently laid on its doorstep, was embarrassing to the New Deal which had not planned it that way.

Interest has been revived of late in a remarkable book published in 1888 in which the writer, Mr. Edward Bellamy, among other things foretold radio and television. But the same book also predicted huge umbrellas over entire cities to keep out sun and rain, and it is not improbable that as of that day the umbrellas seemed just as attractive for capital investment as the radio, which has since materialized, or as television which now seems on the way. The mental highways of the past are littered with false prophesies and long forgotten forecasts and conjectures that, to the opinion of the day when they were uttered, were doubtless more plausible than many of the then fantastic and incredible things that time has since brought to pass. The dog in the fable, who lost his bone when he seized its reflection in the water, was trusting his own eyes about a small bit of the future that seemed immediately ahead. The only thing quite certain about the future is that it will be full of surprises; and in so far as it cannot now be foreseen, to plan for it is to plan in the dark.

Nor is this darkness the only or even the major difficulty. Where the seeds of evil have already been sown, the harvest of disaster, even though foreseeable, may be unavoidable notwithstanding. The future, if it is to be regulated, must be regulated before it gets here. It lends itself only to prenatal

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influences, influences which, in so far as they do not pass human understanding, are only the present and the past. But the past is gone. No further manipulation of causes is possible there. And the present, which alone is in reach, with disturbing regularity trickles through the glass. On close examination it also disappears and has to appropriate a little from both past and future to make any showing at all on its own account. What is done must be done in this present, which is always a time of crisis, a sort of unstable turning point from a past that cannot be recalled into an unknown future.

If any future at all could be planned with certainty, no doubt it would be the perpetuation of the present. Strong positive influences, as well as the ease of old habits, the urgent claims of vested interests, and the drag of a powerful inertia, are always at work to this end. But the present is too dynamic, too volatile, too highly charged with explosives to stay put. Our own country, though not typical, is representative nevertheless. With us the present is an inconstant mixture of alien and conflicting elements, diversely active, torn with rivalries, and turbulently disordered. It was so ordained in the formula on which our constituents were put together. Not content with an original stock of scattered immigrant groups, each prone by nature to insurgency, the American Genius, a daring experimenter in social agronomics, added foreign races with alien cultures grown up under strange environments. With unmistakable though let us hope with benevolent humor, he indoctrinated them all with the political gospel that the social ideal is the individual's freedom, put them to work in competition for a livelihood, divided them up among 200 religious denominations, divided them again into 48 independent sovereignties, tied those sovereignties together with a superconstitution, exposed this loosely-woven social fabric to an industrial revolution with its hierarchy of responsibilities and its division of labor, filled in the details and called it the United States of America. In such a soil the indigenous growths of the past have been political upheaval, social fermentation and civil strife, rather than an ordered tranquillity and calm. Indeed, the only calm of which such a society

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would seem capable is the temporary stagnation of a dead center.

European countries, many of them, within their own boundaries enjoy a higher degree of racial, social and cultural integration. But the same sort of jarring diversities that have been brought together here in America, modern inventive genius—with its industrial age, its shortened distances, its multiplication of contacts and its interlacing of interests—has thrown into sharp collision all over the world. If Italy could Italianize Europe, or England could Anglicize it, or Germany Germanize it, or if either some one of these, or Russia, or Japan, or the United States, could impose its economic system, its constitution and its culture upon all mankind, perhaps a broad foundation could be laid for a stable future. But Russia is not willing to be Anglicized nor England to be Germanized. Each nation has its own ambitions and each people is jealous of the privilege of living its own life and solving its own problems. There is even less stability in the European than in the domestic scene, and the good round earth is but another Europe on an enlarged scale.

The effects are unpleasantly apparent. Conflicting ambitions clash. Free trade countries resent the high tariffs charged by countries that believe in protection. National self-sufficiency frustrates the provisions of nature. Immigration exclusion laws foster dissensions. Competition for markets breeds contentions. Economic quotas dry up the channels of trade. Fluctuating money values paralyze exchange. Rivalries in armaments arouse suspicions. The Have-nots look with envy on the Haves. The principles of self-government collide with the principles of dictatorships and autocracies. Racial minorities plead in vain for justice, and political refugees seek in vain for a home. It is a turbulent world both at home and abroad. This storm-tossed sea of the current social life, in its ever-changing disequilibrium, cannot be suddenly quieted down and congealed, then perpetuated as it is. And if it could, the eerie stillness would bear no resemblance to what we know for either present or past, whereas the future, whether regulated or left to itself, will partake of the nature of both and be a repetition of neither.

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Those who believe that the quarter-century now coming to an end has been unprecedented for instability do not lack for impressive evidences to sustain their view. The dislocations of the World War, the doubling of the world's population, the amazing increase in the length of human life, birth control, efficient women displacing inefficient men in industry, the mechanical multiplication of man power, the new physics, new conceptions of the universe, the breaking down of old religions, a revolution in human thought, these and other unregulated regulators of tomorrow, brooding at the bottom of our discontents, have unsettled the present and confused and clouded the future. Indeed, the very plans that have been made have gotten in one another's way and have aggravated the feeling of insecurity. No single factor today so darkens the prospect for tomorrow as the plans which a number of the leading nations seem to have made for either the whole or a substantial part of human kind.

But it would be easy to exaggerate the disparity between this and other times. The only reason the past is secure is that it is past, and we ought not to mistake the hush that shrouds the tombs of other days. They had their revolutions in thought, their religious wars, race wars, economic wars. Some peoples with them died out, while others under a more vital urge multiplied. The dominant races of one time were the dead or decadent races of another. One people had its dark ages and another its renaissance. The centuries are slow-moving only because we see them from a long way off. In the past, as now, the balance of social forces, either spontaneously or under stress, was always shifting. With them, as with us, the status quo was a buzzing confusion, a seething ferment of instability and commotion, a paradoxical state of constant change, impossible to stabilize or maintain.

Nor is it any more desirable with us than it was with them that the status quo be maintained. It has been aptly observed that only among the ants and the bees do social conditions never change. As searching a student of social relations as Jeremy Bentham, deeply impressed as he was with the injustice and the suffering attendant upon any great social readjustment,

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urged the retention of slavery where it had already become established rather than pay the price for its abolition. But such perpetuated integration as Bentham thus defended is not the way of the social life. Of such an attitude the Lord complained that His people had "forsaken the fountain of living waters, and hewed them out cisterns." Among current definitions of right, propositions of impartial justice are mingled with mere definitions of past victories of the strong, whether on the battlefield, in the court room, or in the forum. Such definitions, therefore, have always to be open to reëxamination and to possible revision. In matters of government, Thomas Jefferson denied the very right of the present generation to fix limitations upon generations yet to come, and, to insure that the plans of a past generation should not become prison walls around their posterity, he urged a convention for constitutional amendments every nineteen or twenty years.

Any plan for the morrow, if it is to become a government program, must of necessity be initiated by the dominant interests of today. A Russian plan, formulated now, would look to a Soviet future; a German plan would entrench the Nazis; and an Italian plan would seek to establish the Fascisti all the more securely. Indeed, we do not want tomorrow to be a mere repetition of today. At whatever cost to vested interests, or whatever the threat to the status quo, human slaves either enlist the sympathies of liberators or rise up and free themselves. Disinterested investigations expose old errors and the fermentation of new ideas discredits old dogmas. Conscience prods the human being to eradicate oppression, and imagination lights his way to better his own condition and the condition of his fellows. Human curiosity pries into hidden secrets, and human ingenuity devises new ways of doing things. Plans for a better tomorrow disturb the repose of today. Technological unemployment is only one of the prices men pay for trying new things. Every great advance in the art of civilization has shaken the foundations of the existing social order, and yet the human race has had the hardihood and the persistence for still further experimentation. The perpetuation of the status quo would be the perpetuation of error. The

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set-up of today, even where it is right for the time being, will be wrong tomorrow.

The problem, then, which confronts him who would make provision for a different future, in the midst of the diverse factors that crowd each other in the rapid and bewildering movements of the present social life, is the baffling and complicated problem of determining some switch to turn here or some current to divert there, some social force to deflect, some old influence to neutralize or new one to start going, some place to accelerate and another to put on the brakes, some new leaven to implant in the social conscience or some new thought to engage the public mind, some tightening up or relaxation of authority, so that when tomorrow arrives the feature he had foreseen and to which he had objected will have been eliminated, without at the same time so disarranging other relations as to exact too great a price for the change.

Such maneuvers have sometimes worked, but the frustration of many a supreme effort has taught us humility, while many a trivial incident that turned out to be full of destiny has given us reason to be wary. The stars in their courses have often fought against us. The risks of disaster are proportionate to the possibilities of success, and far more often than either success or disaster there has been an obvious failure of laborious effort, or else it has been impossible to say, even after the event, just what the effect of our effort has been.

The Allies fought the recent War to make the world safe for democracy, while Germany fought for her *Mittel Europa*. The Allies won, decisively, whereupon the world became quite unsafe for democracy, and Germany, decisively defeated, now occupies her *Mittel Europa*. Napoleon aspired to establish a European dynasty, but fate assigned him instead the rôle of purging the dynasties, and the democratic statesmanship of today counts heavily on like machinations of the stars to dispose of the dictators. Under neutrality laws, the neutral is found to have taken sides with the stronger belligerent, and sanctions, designed to prevent war, it is now seen, may cause war. When the League of Nations was founded, it was chiefly feared in this country as an all-powerful super-state, but the

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fateful strains to which collective security has recently been subjected are vividly in everyone's mind. Today we are not sure that the League has any power at all.

In our own domestic experience, the Prohibitionists intended that the Eighteenth Amendment should promote the cause of temperance, but instead it corrupted the police and financed the underworld. Within a short time after the publication some years ago of Mr. Corwin's book *The Twilight of the Supreme Court,* that Court was basking in the spotlight of the country's awesome attention. When President Roosevelt failed in his effort to liberalize it, the Court, for one reason or another, then became liberalized. Under a program of acreage restriction we raised in 1937 the largest cotton crop in history. Our government silver policy, justified partly as an aid to Mexico, China, and other silver money countries, deranged the internal economy of those countries and evoked from them the strongest of protests.

Illustrations of such miscarried plans could be indefinitely multiplied. Every law is an attempt to carry out some social plan, and every lawyer is familiar, not only with instances in which laws have failed to accomplish the purposes for which they were intended, or may even have defeated those purposes, but also with instances in which the unintended, unforeseen and indirect by-products of laws have outweighed in importance, for better or for worse, the ends for which they were enacted. The patchwork of history is an intricate design, fashioned largely from the broken fragments of shattered plans. These, together with the happy accidents of trial and error and an occasional plan that actually does work, make up the pattern.

There is something elemental, or something cosmic and volcanic, about the flow of history that pays contemptuous disregard to platted curves and to the colored pins men put in their maps. It flouts old customs and usages, snaps old corner stones and demolishes old landmarks, undermines *stare decisis* and disrupts the status quo. With all our prevision and intelligence, and despite the lessons we have learned from the past, the major directions of this flow are still beyond human control. Dante, in the *Divine Comedy,* thus expressed the thought, if

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we may disregard the verse structure and use only his words. "This fortune", said he, "whose talons grasp the blessings of the world . . . at due time may change the empty vantages of life from race to race, from one to other's blood, beyond prevention of men's wisest care. . . . Against her nought avails your utmost wisdom."

Even where the future develops along the lines we have planned, it is not infrequently a mere coincidence, as in the case of the serious-minded woodpecker, who all his life believed he had pecked down a tree which the wind blew over while he was pecking on it, or as in the more impressive case of Rostand's Chanticleer whose mighty morning call brought up the sun. While men, with like conceits, thus misread the signs and mistake the causes, the wheels of fate, or destiny, or fortune, or providence, or chaos, or whatever else one prefers, roll on their casual but unrelenting way.

A wise man has said that "foresight is the closest approach to a panacea known to man." But it was also a wise man who said that "the will and intention of the men of today, in what they do, has so little to do with the consequences of tomorrow." Another pair of epigrams, these, between which no doubt the truth lies. Machiavelli, complaining that "Fortune orders in human affairs things contrary to all human expectations", undertook to draw the line between these antithetical wisdoms in his estimate that "Fortune is the mistress of one half our actions and yet leaves the control of the other half, or a little less, to ourselves." The drawing of this line, wherever it belongs, is of course one of the major problems of living, and civilization a process of continually drawing it anew. Nor is it enough to distinguish that which can be controlled from that which cannot. Of equal importance is to draw the line wisely between evils we can afford to avoid and those we cannot. One who always stays indoors will never get caught in the rain, but the protection is hardly worth the price; and civilization has offered an umbrella as a compromise for the timid.

There are those who have suspected Henley of whistling in the dark when he boasted that "the menace of the years finds

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and shall find me unafraid". There is no menace in "the menace of the years" if it finds one unafraid. And menace or no menace, it has been the destiny of most men, not to ride at anchor in a quiet harbor, but to be tossed upon the troubled sea of the world's affairs. The past twenty-five years have been uneasy years for him who could fit only into a secure niche in a stable society, just as they have been uneasy years for the man who, like Thoreau, would rather sit on a pumpkin and have it to himself than be crowded on a velvet cushion. The future, no doubt, will continue uneasy for both sorts of men. In the past a man's life, aptly characterized as a strange interlude between the mysteries of birth and death, has been full of uncertainty, insecurity and danger. Despite the best of plans, it is likely to continue full of hazards and full of mystery and danger. Society itself is embarked on a bold adventure, undertaken on faith, just as each individual is a pioneer standing upon the threshold of a particular future which no man has explored. Such tranquillity and calm as are his come from communion in silent meeting with the quiet voices of the mind, from keeping company with his own thoughts, from walking in the green pastures and strolling beside the still waters of his own soul. And as thus with inward calm he rides the storms, whether his own voyage ends in shipwreck or in safety, in triumph or in disaster, his will be the high satisfaction of having sailed the seas and taken his chances.

Some security men must have, but the very search for security is itself an age-old adventure; and such security as they have achieved men have always used as a base from which to venture farther. The more successful the adventure the broader the base of security, and the broader the base the wider the range for possible future exploration. This functional paradox, reflected in human character, is congenial to the varying tempers of men. When bored with security, we yearn for adventure; and when worn out with adventure, we long for security. We treasure security because it keeps men alive, and we cherish adventure because it initiates them into the mysteries of living.

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The future, therefore, though never so uncertain as to be a menace, is never so secure as not to be a challenge, and the lure of adventure, let us hope, will always beckon to the strong in heart. Sanity is neither all recklessness nor all caution. Those who inherit the earth have to make plans, but they also have to take chances, and the good life is the right combination between them. The White Knight of Alice in Wonderland, in his concern " to be provided for *everything* ", took along a beehive in case he should run into some bees. An umbrella, perhaps, will do on occasion, but a beehive is just too much. The best preparation for the future is the present well attended to, and the important step in the administration of most plans will be to change them.

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DOES AMERICAN LABOR STAND TO WIN OR LOSE BY TRADE AGREEMENTS?

I

MUCH has been made during recent years of the fact that farm prices and farm income have fallen by a greater ratio than industrial prices and industrial income; the effort to restore to agriculture its "normal" and reasonable share of the national income has perhaps strengthened the impression that a fundamental conflict exists between agriculture on the one hand and industry on the other. The tariff presents a dramatic issue where the interests of these two great pursuits seem at first sight to diverge. The outstanding agricultural staples, such as cotton, hog products, wheat, rice, tobacco, fruits and the like, are on a heavy export basis, and are therefore clearly dependent upon our maintenance of foreign markets and foreign purchasing power; for the farm groups who produce these commodities high tariffs are positively injurious. But in the case of many industrial products high tariff protection is demanded and claimed to be necessary to keep out foreign competition. Thus it is, for instance, that high tariff New England often finds itself pitted against the agricultural South; and the feeling has grown up in many quarters that the true interests of the farmer are in fundamental conflict with those of the mill worker.

Something of this feeling has been evident in the reaction of the two groups to the American trade agreements program. Naturally not every section of the United States profits to the same degree from each separate trade agreement. Some agreements are with countries predominantly agricultural. Such countries, in the main, offer large export outlets for our industrial products and seek agricultural concessions from us. Other agreements are with countries predominantly industrial. These generally offer large export outlets for our agricultural

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products. During the negotiations with predominantly agricultural countries, such as Canada, the Department of State was accused by many agricultural interests of the West or Mid-West of "selling them down the river", and of sacrificing the agricultural West to industrial New England. During the negotiations with predominantly industrialized countries, such as Czechoslovakia and the United Kingdom, New England and other industrial sections of the country charged that the State Department was selling them out to the agricultural interests of the country.

Surely New England cannot hope to be prosperous if Western farmers are unable to make a living wage. The essential interests and economic life of industrial sections and of agricultural sections of our country are so closely and inextricably interknit today that prosperity or adversity cannot touch one group without sooner or later reaching all. When farm income goes down, farmers cannot buy the shoes, clothing, radios or other industrial goods which they desire and are accustomed to buy. When factory payrolls fall off, factory workers cannot buy the meat, butter, pork products or other farm produce which they desire and are accustomed to buy. When the purchasing power of one group falls off, disaster spreads like poison among all other groups accustomed to sell to them. The only sound way to build for the enduring benefit of one group is to build for all. When, as a result of the first Canadian trade agreement, Canadian duties on nearly 600 non-agricultural tariff descriptions were reduced, American farmers substantially profited through the sale of more meat and farm products to the workers in every American factory whose production increased as a result of increased sales to Canada; and these farmers, with consequently increased purchasing power, in turn bought more goods from New England and other industrial areas.

The trade agreements program, therefore, must be viewed as a unified whole. If foreign trade is blocked by impassable barriers, so that foreign markets are lost and economic stagnation touches our industrial areas, farmers lose domestic markets with corresponding loss of income; and if economic

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stagnation touches our agricultural areas, city dwellers and factory workers lose domestic markets with corresponding loss of income. The prosperity of each is built on the prosperity of all.

II

How does the trade agreements program affect the interests of the rank and file of workers in this country? As to the fundamentals of the problem there can be no dispute. It is manifest to all that in the daily round of experience our standard of living and our welfare are immeasurably advanced by a high degree of specialization and division of labor. If every man had to make his own boots, and keep and feed cows to secure the leather with which to make them, if he had to cut and sew and make his own clothes, and if to secure the necessary cloth he had to grow the cotton or tend the sheep, gin the cotton or card the wool, spin the thread or yarn, weave the cloth and properly dye it, if he had to procure and prepare his own food, as well as to care for himself in sickness, educate and care for his children, and a thousand and one other things, manifestly he could not possibly maintain present civilized standards of living, if he could live at all.

No argument is necessary to prove that existing standards of living and modern civilization itself depend upon a high degree of specialization of labor, whereby those who live in warm climates grow tropical products, those who live in cooler climates grow, perhaps, corn or wheat, those who are more proficient with their hands engage in manual occupations, those who have had educational opportunities engage in intellectual pursuits along the line of their particular training, and so on. Through the exchange of the products of each group comes the possibility of modern civilized life, comes the existing standard of living in modern communities, come wealth and national income. In other words, upon exchange of products, i. e., trade, are built modern wealth and modern civilization. Destroy trade and you destroy civilization.

This fundamental principle remains true whether the exchange takes place between producers living close to each other

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or far apart, whether the products cross county lines or state boundaries or national frontiers. Indeed, the wider the geographic range of trade, the further this principle can be carried, thus multiplying the efficiency of workers everywhere and increasing the sum total of goods and services available for the consumption of all.

Prosperity and civilization, and consequently the living standards and the wages of every worker, rest upon trade and exchange of products between different groups of producers, or in the language of the economists upon the "division of labor"; and whatever hinders or blocks this exchange hurts and lowers the worker's standard of living.

If any proof of this self-evident truth were necessary, we have only to turn to the experience of our own times. After the economic crash of 1929, nations, seeking to protect themselves from the effects of foreign currency fluctuations, international dumping of commodities, and world-wide economic dislocation, proceeded to barricade themselves against imports from other nations by new and increased trade barriers of every kind. Due to the effectiveness of these trade barriers and to the word-wide economic depression, international trade had dropped by 1932 to 74 per cent of its 1929 volume and to 39 per cent of its 1929 value.

With this catastrophic drop in trade, what was happening to the workers of the world? More than a third of all employment available in 1929 — at a time when substantial unemployment already existed—was wiped out. By early 1933 over thirty millions of workers were idle, and other millions not completely out of work were only partly employed. In the United States we experienced the peak of unemployment in all our history. Payrolls fell even more sharply than employment, and workers' standards of living dropped to disastrous levels. Was there ever a more stark and tragic object lesson that embargo tariffs are powerless to protect American labor against unemployment, starvation wages and disaster?

It need scarcely be added that, whatever its theoretical advantages, no responsible statesman today is seriously advocating free trade. Industries have been built up and economic

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alignments have taken place under a system of protective tariffs which could not be erased without causing nation-wide dislocation. What is needed today is not the elimination of all tariff walls, but the elimination or reduction of unjustifiable and excessive trade barriers—particularly the extreme barriers which have been created all over the world since 1929.

III

The road to prosperity and increased wages, as every intelligent worker and business man knows, lies through increased production and increased sales — in a word, in our present world of seeming overproduction, it lies through finding increased market outlets. How? What is the most practical and effective way to achieve this?

Two alternative methods have been suggested, each inconsistent with the other—the one negative, the other positive; the one illusory, the other realistic. The first is through shutting out from American markets all foreign goods which are even remotely and indirectly competitive. The second is through developing and building up new and increased home and foreign markets.

The first method, that of shutting out all foreign importations so as to assure a one hundred per cent monopoly of the American market for American producers, has the appearance of simplicity and directness. The difficulty is that it is too simple and too naïve. It is not practical, as our experience has shown.

The Hawley-Smoot Tariff Act of 1930 was the embodiment of extreme protectionism. It was so framed as to exclude or reduce drastically the importation of every foreign product directly competitive with our own. The mill worker and the farmer were to have—and in fact acquired—a highly protected domestic market. With the passage of the Act the proponents of extreme protectionism had their way.

Yet in spite of their promises and prophesies, the mill worker and the farmer alike experienced disaster. The theory did not work. By raising prohibitive barriers against foreign imports the new Tariff Act deprived foreign countries of the means of buying our exports; it provoked tariff retaliation; it greatly

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intensified the growth of trade barriers throughout the world; and it effectively cut us off from many of our foreign markets. The resulting economic dislocation both at home and abroad cost labor dearly.

Between 1929 and 1932 the value of our exports fell from $5,200,000,000 to $1,600,000,000, or to less than a third of what they had been. Though the volume, particularly of agricultural products, fell less sharply than the value, that was small comfort to the cotton grower who watched the price of cotton fall, as it did in 1932, to less than 5 cents a pound, or to the wheat grower who watched wheat descend to 32 cents a bushel, or to the corn farmer who saw corn go below 20 cents a bushel. What counted was a decline of $3,600,000,000 in income from export sales of the products of farm and factory. Our entire economic life was shaken. No industry, no region, no locality, was free from its effects.

Carried along helplessly in the general tide of disaster were the very industries that had sought to protect themselves behind embargo tariffs. In their overzeal to push tariff rates on their own products to embargo levels, like Sampson they pulled down our economic structure upon the heads of all.

The embargo policy is and always will be injurious to labor, for it destroys markets. It rests upon the false assumption that markets are static and fixed. In fact, we know that precisely the opposite is true. Markets rapidly expand and contract with available purchasing power. The practical way to secure increased markets is not to shut out all imports so as to obtain the entirety of a shrunken domestic market, but to expand vigorously the domestic as well as the foreign market through increased payrolls and incomes due to stimulated trade.

Every increase in the sales abroad of American wheat or hog products or automobiles means more dollars in the pockets of American workers producing for export; and these producers will be buying more clothes and food and consumers' goods in every section of the country and thus building up and increasing our domestic markets. In turn, workers in every industry from which they buy will have increased payrolls and will themselves buy goods from still other sections.

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Every sale abroad thus sets in motion an unending sequence of economic transactions which invigorate as with new life every place they touch. Foreign exports help labor because they build up domestic markets for the products of labor as well as foreign markets.

Of course, as must be apparent to all, a system of complete import embargoes against all products which are even remotely competitive is as impractical today in the world of actualities as complete free trade. We need for our factories and for our people many products which we cannot economically produce or cannot produce at all. A complete embargo against imports would mean the stoppage of much of our production. The real choice lies between policies of less or more foreign trade—not between complete embargoes or complete free trade.

Employment comes through increased trade and not through embargoes. By blocking international exchange of goods and thus cutting off our foreign markets a policy of embargoes cripples our great exporting producers, upon whose economic health and purchasing power domestic prosperity and domestic markets largely depend. If through skillfully formulated trade agreements the flow of trade can be stimulated and increased in both directions, economic activity throughout the world will increase in greater volume than that represented by the export-import transactions involved. Domestic producers—those who do not export as well as those who do—will be distinct gainers, not losers. This has been proved again and again by actual experience.

In 1929 imports into this country were valued at approximately four and one-half billion dollars; the index number for production of manufactures (based on 1923-25 as 100), stood at 119; the employment index, at 106, the payroll index, at 110. The number of unemployed was estimated as between two and two and one-half million. In 1932 this huge value of imports had fallen to one and one-third billion dollars. While trade imports thus fell off, what was happening to American labor? The production index for manufactures fell to 63; employment, to 66, payrolls, to 47. At least twelve and one-half millions of workers were wholly unemployed, and two

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and one-half million more are estimated to have been partly unemployed.

Statistics give clear proof not, indeed, that increased imports are necessarily the cause of increased employment, but that the one ordinarily accompanies the other and certainly is not incompatible with it. During the last decade, according to the Department of Labor's index of employment, factory employment increased in every single year in which imports increased, and decreased in every year in which imports decreased.

The truth is that mill wheels turn and men find jobs not when foreign goods are excluded from American markets, but when American wealth is created by a trade brisk because unhampered by unreasonable hindrances. Employment and high payrolls come with active trade which builds up purchasing power. The cry of 100 per cent of the American market for the American working man is of popular demagogic appeal; but it means killing foreign trade and hence destroying a dynamo which makes for employment. Practical experience has proved the embargo policy a failure. The salvation of the worker depends upon developing and building up new and increased home and foreign markets through stimulated trade.

IV

A common belief among many labor groups is that a high tariff wall is vitally necessary "to protect the American standard of living". Without it what would prevent the United States from being flooded with cheap foreign goods against which we with our highly paid American labor could not compete? How far do the facts bear out this common assumption?

If the assumption were true, how could the United States successfully export and sell anything to countries with "cheap foreign labor"? How is it that we export today immense quantities of manufactured goods and of raw materials to Japan, to China and to countries where labor is paid the least?

The answer is clear.

The money wages of American labor are high. But because of our genius for multiplying the output of labor by the ex-

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tensive use of machines, by mass production economies, by plentiful capital, and by skilled and progressive management, the output of the average American workman far exceeds the output of the average Oriental workman; as a result the actual labor cost for a unit of the output is in many cases less in the United States than in foreign countries. In other words, while our money wages are high our labor costs per unit of production are low; hence in a great many cases we can easily compete with and undersell goods produced abroad by workers receiving considerably lower wages. That is how American products, such as automobiles, typewriters, adding and other calculating machines, rotary printing presses, and various types of farm and industrial equipment and machinery, given an equal chance, are successfully sold in world markets against all competitors, in spite of the fact that higher than average wages are paid in these and many other export industries.

Where unit labor costs are low there is no need of tariff protection because we can undersell our competitors. In fact, high tariffs in such cases will generally prove injurious by impeding the sale in foreign countries of exportable surpluses.

If the tariff wall played a decisive part in creating or maintaining the high wages of American workers, wages would presumably tend to be higher in the industries protected by high tariffs than in the industries having low tariffs or none at all. Yet the exact opposite in fact seems to be the case. The wages paid in highly protected industries, by and large, apparently fall below the national average, and those paid in the export industries with little or no tariff protection tend distinctly to rise above those paid in the protected industries. According to a recent study, a million and a half workers in those protected industries for which adequate employee earnings' data are available earned an average wage of $20.88 per week during 1937. During the same period the weekly average for manufacturing industry as a whole was $25.14. Any careful study of the statistics seems to prove inescapably that the American standard of living is not dependent upon tariff walls.

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V

As a matter of fact only a small fraction of the workers in the United States are in so-called "protected" industries.

According to the last census there were approximately fifty million persons "gainfully employed" in the United States. About half of these, or some twenty-five million, are employed in the service industries, such as transportation, wholesale and retail trade, public utilities, hotels, professional services and the like. Obviously, foreign competition cannot reach these occupations; high tariffs clearly cannot protect them. On the other hand, high tariffs can do them immeasurable injury. The wages of those engaged in railway, steamship, stevedoring, insurance, trucking and similar work are manifestly dependent upon commerce and trade. High tariffs which reduce trade are clearly injurious to their welfare. Furthermore, all the workers within this group, as consumers, suffer direct injury from excessive tariffs through increased costs of living; and when the general prosperity of the country is retarded by such extreme high tariff policy as that enacted in 1930, the prosperity of the industries in which they work is also diminished.

Of the remaining twenty-five million "gainfully employed", some ten million are farmers. Of these only an insignificant fraction is directly benefited by tariffs. The great bulk of our farmers, producing such staples as cotton, tobacco, rice, wheat, hog products, fruits and the like, depend heavily on export markets. Excessive tariffs do incalculable injury to farmers—both by reducing available markets for the products which they have to sell and by increasing the cost of the goods which they have to buy. The millions who gain their livelihood from agriculture—whether as owners, tenants or hired labor—suffer, rather than benefit, from excessive tariffs.

Of the remaining fifteen million workers "gainfully employed", about half are in manufacturing industry; the remainder are, for the most part, in the building or mechanical trades, or in mining, forestry and fisheries. Of this fifteen million, fully two thirds are in branches of production which cannot be effectively protected by tariffs, either in those types

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of manufacturing or mining industry which are on an export basis, or else in building and other trades which are outside the range of tariffs.

These ten million workers, like most of those engaged in agriculture, are incontestably injured rather than benefited by excessive tariffs. To those working in industries on an export basis, excessive tariffs mean reduced export outlets; to all alike, excessive tariffs mean increased costs of the goods they want to buy and generally reduced purchasing power, both foreign and domestic, for the goods they produce and desire to sell. Depression in the automobile industry, for instance, means a poorer market for cotton, meat, dairy products, fruits, vegetables, and other farm products (whether or not they are on an export basis), and a poorer market for many factory products as well.

Of the remaining five million workers it would appear that only about half are employed in industries which are in any major sense on an import basis and hence so situated that tariffs could have any appreciable effect on prices of the things they produce. This is equivalent to about five per cent of the total number of "gainfully employed" people of the United States.

Even as to this relatively small group of workers it is open to really serious question whether excessive tariffs work to their ultimate benefit. If one group obtains an excessive tariff, the protectionist movement does not stop there. Other groups will inevitably obtain similar privileges, and the result will be heightened trade barriers over an extended front. And widespread trade barriers spoil the domestic market even for protected groups. The drastic reduction of competitive imports effected by the Hawley-Smoot tariff in 1930 did not avail to protect these industries from disaster due to the shrunken domestic markets which followed in its wake. Unemployment and depressed payrolls marked these industries to fully as great an extent as others. Whatever temporary and immediate benefits the worker may appear to receive from the tariff which shelters him, such embargo tariffs, when adopted generally, ruin the very domestic market which they are supposed to protect.

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The inescapable conclusion from any careful study of the facts is that labor in the United States is not helped but is definitely injured by embargo tariffs. The overwhelming majority of the workers in this country unquestionably stand to gain from a policy of tariff moderation which, by fostering healthy trade, promotes the sound prosperity of the entire nation. That is the policy of the trade agreements program.

FRANCIS B. SAYRE

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CONTESTED CONGRESSIONAL ELECTIONS IN RECENT YEARS

ON June 9, 1938, the United States House of Representatives, acting under its constitutional right to judge the elections of its own members, voted to unseat Arthur B. Jenks, Republican Representative from the first district of New Hampshire, and to seat in his place the Democratic contestant, Alphonse Roy.[1] The contest had come to the House after a series of recounts and revolved around thirty-four allegedly missing ballots in the town of Newton. The House, preponderantly Democratic, accepted the report of the Committee on Elections in which the six Democratic committeemen recommended the unseating of the Republican Representative, while the three Republicans dissented. Debate on the floor was noticeably partisan, with only twenty-six Democrats joining Progressives and Farmer-Laborites to support the solid Republican membership of eighty-four. Overriding Republican appeals for impartiality, the Democratic majority unseated Mr. Jenks by a vote of 214 to 122. As a result, Mr. Roy received $20,000 in salary for services which he did not perform, together with $3,118.30 for expenses and additional remuneration for the cost of waging the contest. Mr. Jenks kept the $14,361.11 salary he had collected, together with $8,046.12 expenses, although it was determined that he had never been the duly elected Representative from the first district of New Hampshire. The decision of this contest illustrates strikingly many of the undesirable features in the present mode of settling these cases. A minority Representative, shortly before the final adjournment of the Congress and after having acted for two years as a member of the House, was unseated to make way for a majority contestant in a proceeding obviously partisan and for reasons generally conceded to be

[1] *Congressional Record*, 75th Congress, 3d session, vol. 83, pp. 11417-11435.

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political in nature.[2] This case has again focused public attention on the problems involved in the settlement of contested Congressional elections.[3] That political factors, in addition to the elements of expense and delay, characterized a proceeding which should be judicial in nature makes it important to reëxamine the process by which contested elections are determined and to note the general tendencies of recent years in the decision of these cases.

The prerogative of the House of Representatives to decide contested election cases rests upon the provision of the Constitution that "Each House shall be the judge of the elections, returns and qualifications of its own members."[4] This grant of power confers upon the majority of the House the right not only to determine the qualifications of its members, but to decide whether a person has been duly elected, or which one of two persons both claiming is entitled to the seat. The duties are hence judicial in character, and can be carried out properly only through a procedure essentially judicial. The authority granted to the House is, however, unlimited. There is no appeal from the decision of the majority. Despite infractions of rules of evidence or disregard of statutes and precedents, there can be no redress save by action of the House itself. It has often been asserted that the House, conscious of the unlimited nature of this authority, has during the course of its history consistently prostituted the power to partisan purposes.

The judicial character of these controversies has been recognized by the House from time to time. The procedure adopted early in its history attempted to place these decisions upon an impartial basis. As early as 1791 and again in 1796 and 1797 resolutions were introduced to govern the mode of taking testimony, but they were not acted upon. The report of Fisher

[2] Aside from the partisan division on the floor, political considerations are indicated by the charges that Mr. Jenks was being sacrificed in a Democratic bid for the French-Canadian vote in New Hampshire. Mr. Roy is French-Canadian, and Democratic Senator Fred Brown needed New Hampshire's big French-Canadian vote in 1938.

[3] *Boston Herald*, June 10, 1938, p. 1, col. 4. See *Time*, June 20, 1938, p. 13.

[4] Article I, section 5.

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Ames of Massachusetts in 1791, fixing time for taking of depositions and prescribing rules to govern the procedure, formed the basis of the statute of 1798. This act gave the proceedings the character of judicial investigations. It was limited to the expiration of the first session of the next Congress, and though renewed by a subsequent act, it expired by limitation in 1804 and was not reënacted. From that time until 1851 there was no law upon the subject and political considerations determined practically every decision reached. During this period there was no uniformity in the conduct of the cases, either in taking testimony, holding hearings, or in the principles followed for decision. Constant struggles against this slipshod procedure availed but little. In 1810, 1813 and 1830 bills remedying the procedure were introduced in the House but failed. Partisanship was entering more and more into the contests. Finally in 1851 the act which, as amended, governs the present procedure was passed.[5]

It provides, in brief, that the governor of the state in which the election was held shall declare by certificate the person who has been duly elected; that the certificate is to be filed with the Clerk of the House; that any protest of the seat must be filed within thirty days, setting forth the grounds of the counter-claim; that the contestee must answer within thirty days; that during the ensuing ninety days the claimants may cause to be taken testimony before officers authorized to hear it and that to this end the two parties may apply to any state or federal judge or notary public for the issue of subpoenas to compel the attendance of witnesses, giving of testimony, and procurement of papers; that such testimony, depositions and papers shall be filed with the Clerk of the House; that the parties are then to appear and indicate the parts they wish printed; that within sixty days after printing the parties exchange briefs; and that all such material is thereupon transmitted to the committee on elections provided by the rules of the House for such cases.

[5] The present procedure is governed by the statute of 1851, as amended by the act of March 2, 1875. *United States Statutes at Large*, vol. 18, ch. 119. A good discussion of the early methods of handling these cases is found in Henry L. Dawes, "The Mode of Procedure in Cases of Contested Elections", 2 *Journal of Social Science* (1870) 56.

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The House has since operated more or less consistently under the procedure here laid down. In spite of the provisions for action which was at least superficially judicial in nature, the political motive had ample opportunity for full play. This became apparent soon after the adoption of the legislation. Writing in 1870, Henry L. Dawes, who was for a long time chairman of elections committees, described the nature of the procedure as follows:

> All traces of a judicial character in these proceedings are fast fading away, and the precedents are losing all sanction. Each case is coming to be a mere partisan struggle. At the dictates of party majorities, the committee must fight, not follow the law and the evidence; and he will best meet the expectations of his appointment who can put upon the record the best reasons for the course thus pursued. This tendency is so manifest to those in a position to observe that it has ceased to be questioned and is now but little resisted. There is no tyranny like that of majorities, and efforts in the past to resist them and to hold the judgments of a committee of elections up above the dirty pool of party politics have encountered such bitter and unsparing denunciation and such rebuke for treason to party fealty that they are not likely often to be repeated.[6]

Representative McCall, as chairman of a committee on elections, remarked on one occasion that "A most casual inspection of the workings of the present system of deciding election contests will show that it barely maintains the form of a judicial inquiry and that it is thoroughly tainted with the grossest partisan-

[6] 2 *Journal of Social Science* (1870) 56, at 64. Another observation made at about the same time may be noticed. Speaking of his experience on an elections committee of the House in 1871-1873, George Frisbie Hoar said: "Elections cases in the House up to that time were . . . determined entirely by party feeling. Whenever there was a plausible reason for making a contest, the dominant party in the House almost always awarded the seat to the man of its own side. There is a well-authenticated story of Thaddeus Stevens, that going into a room of the Committee on Elections, of which he was a member, he found a hearing going on. He asked one of his Republican colleagues what was the point in the case. 'There is not much point to it,' was the answer. 'They are both damned scoundrels.' 'Well,' said Stevens, 'which is the Republican damned scoundrel? I want to go for the Republican damned scoundrel.'" *Autobiography*, I, 268.

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ship." [7] Along with this may be put the remark of Speaker Reed that "The decision of election cases invariably increases the majority of the party which organizes the House." [8]

There is some indication, however, that toward the end of the nineteenth century the more outrageous instances of partisanship began to disappear. Writing in 1905 after a thorough examination of the cases up to that time, one student of the situation came to the conclusion that the figures did not bear out the charges of extreme partisanship made against the system. "It must be admitted", said he, "that noticeable partisanship in the decisions appears just at present to be relatively infrequent. Under normal conditions, cases may continue to be decided, on the whole, equitably." [9] Some ten years later, however, Representative Alexander reached different conclusions based upon figures which contrast strikingly with those presented in the former study.[10] He felt himself justified in saying that, conscious of its power to do as it pleases, "the House for a century and a quarter has been rendering partisan judgments." He asserted that of the 382 cases of contest submitted up to and including the 59th Congress (1907), only three persons not of the dominant party obtained seats.[11] Another more recent writer declares, "In point of fact, the whole history of the handling of election contests by the House has constituted one of the major scandals of our political system." [12]

[7] House Report no. 2234, 54th Congress, 1st session.

[8] Thomas B. Reed, "Contested Elections", 151 *North American Review* (July 1890) 112, at 114.

[9] C. H. Rammelkamp, "Contested Congressional Elections", 20 POLITICAL SCIENCE QUARTERLY (September 1905) 421, at 441-442.

[10] Rammelkamp had found that from the Civil War until 1903 (covering the 39th to the 58th Congresses) the majority had gained 120 seats and the minority 88, with many cases not possible to classify. It is true that the majority seldom deprived itself of seats, but it frequently confirmed minority members in theirs as against a majority contestant. This does not square very well with Speaker Reed's remark that these cases "invariably" increased the majority of the party which organized the House.

[11] De Alva S. Alexander, *History and Procedure of the House of Representatives* (Boston, 1916), pp. 313-324.

[12] W. F. Willoughby, *Principles of Legislative Organization and Administration* (Washington, 1934), p. 277.

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In later years, it is claimed, "there has been a marked tendency on the part of the houses of Congress to make their action conform more nearly to equity and the facts of the case." [13] It is asserted that elections committees of more recent Congresses have considered election cases on their merits and in a manner relatively free of partisanship, but that in spite of the work of the committees partisan influences have to a large extent conditioned the action taken on the floor of the House.[14] In view of these facts, the vesting of the power to hear contested election cases in the federal courts has been urged as a remedy for the undesirable condition prevailing.[15]

The purpose of this study is very largely one of fact finding, inspired to a certain extent by the above contentions. By analysis of all election contests in the House of Representatives during the twenty-year period covered by the 65th through the 74th Congresses (1918-1937), an attempt is made to discover: (1) the extent to which partisanship is indicated in the action taken by the House over the period as a whole, based upon statistics of the number of seats given to dominant and minority party members respectively; (2) the impartiality with which

[13] *Ibid.*, p. 281.

[14] Representative Dallinger's remarks on the floor of the House, February 12, 1925, are interesting in this respect. "In years gone by," he said, "it is a fact that contested-election cases in the House of Representatives were as a rule decided on purely partisan grounds, regardless of the merits of the case. The Committee on Eelections, which considered and reported on a contested-election case, usually divided on strictly partisan lines—all the members of the party in power joining in a majority report and all the members of the minority party signing a minority report. In recent congresses, however, there has been a decided change for the better, and the election committees have as a rule considered all contested-election cases referred to them strictly upon their merits and have decided them judicially upon the law and the facts, most of the reports having been unanimous or practically so. But in spite of this fair and impartial attitude of the committees, when these reports have been considered on the floor of the House partisan feeling has almost invariably manifested itself and political considerations and considerations of personal friendship have to a large extent influenced the action of the individual members of the House." *Congressional Record*, vol. 66, part 4, p. 3584.

[15] Representatives Dallinger, Luce and Dowell are among those who have made such suggestions. Some of these proposals are considered briefly later in this paper.

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the committees on elections carry on their work, as evidenced by unanimous reports and by an examination of published committee hearings; (3) the frequency with which the House injects politics into apparently impartial committee recommendations, as indicated perhaps by the number of times the House reverses the findings of its committees and by the nature of the debates on the floor; (4) whether or not it would be desirable to make some other provision for the settlement of these cases. In addition, certain special problems which arise in connection with the disposition of these contests will be briefly treated. In order to reach any conclusions upon these points, it has been necessary to examine the handling of the cases through the ten Congresses by an analysis of the reports in the *Congressional Record,* the arguments made upon the floor of the House, committee alignments, and the testimony made available in the published committee hearings.

Statistical Survey

The first aspect of the problem to be considered is that of the statistical results. Obviously, the element of prime interest here is the number of times the dominant party seated a member of its own political affiliation in preference to a minority member. The outcome of election contests for the period under consideration in terms of party membership can be seen in the following table:

Congress	*Dominant Party*	*Dominant Party Members Seated*	*Seats to Minority Members*
65th	Democrats	1	5
66th	Republicans	2	2
67th	Republicans	2	6
68th	Republicans	1	4
69th	Republicans	2	2
70th	Republicans	5	0
71st	Republicans	1	4
72d	Democrats	2	2
73d	Democrats	6	10
74th	Democrats	0	3
	Totals	22	38

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It appears from the above data that of a total of sixty cases of contest,[16] nearly two thirds of the decisions, ultimately reached, favored members of the minority party. Further, Democratic Congresses seated only nine Democrats as compared to twenty Republicans, and Republican Congresses seated only thirteen Republicans as compared to eighteen Democrats. Purely on the face of the results thus disclosed, the suspicion of partisanship as the determining factor in the decision of these cases is severely shaken. It is entirely possible that individual cases may have been decided by political considerations, but on the whole the figures certainly do not suggest persistent partisanship. If the seats had been fairly evenly divided between majority and minority party men, or even if the majority had seated a few more, there would still have been no sound basis for concluding that party motives alone were at work. But as it actually stands, particularly in comparison with the assertion made by Alexander, the only justifiable conclusion is that great strides have been made in the impartial settlement of these contests. This conclusion, it would seem, is amply supported by an examination of the statistics alone, without the necessity of passing personal judgment upon the impartiality of the procedure in particular cases. It is interesting to notice that only one Congress in the ten seated more majority than minority members.

Work of the Committees

It may now be of interest to inquire into the handling of these cases in more detail. After the contest is filed with the Clerk, reported to the House, and all testimony submitted, the controversy comes into the hands of one of the Committees on Elections. There are three of these provided by the rules of the House, known simply as Committees on Elections Numbers One, Two and Three. They are composed of nine members,

[16] There were actually sixty-four cases decided; but in four of these no one was seated, and hence they do not appear in the table. These were Bodenstab *v.* Berger (Wisconsin), 66th Congress; Carney *v.* Berger (Wisconsin), 66th Congress; Sanders *v.* Kemp (Louisiana), 73d Congress; Memorial of John Bracken (Pennsylvania), 67th Congress.

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six of the dominant party and three of the minority party. With the record and testimony before it, the committee to which the contest has been referred holds hearings, at which the contestant and contestee and their counsel are present to argue the case. These hearings are usually conducted in a rather informal manner, with the members of the committee breaking in upon the arguments frequently to ask questions. When all the evidence and arguments have been heard, the committee retires into executive session to decide upon the resolution to be offered on the floor of the House. The disposition of the case desired by the majority of the members becomes the resolution of the committee and is embodied in its report. The resolution may be unanimous, or there may be a minority report urging either the seating of the other claimant or a recommitment for further consideration. It should perhaps be mentioned that cases also arise to which there are not two parties. The member-elect may be challenged as he comes forward to take his oath of office at the beginning of the session. In that event, there is no one claiming his seat in his stead and the only question at issue is whether or not he was duly elected or is duly qualified to hold the seat.[17] Cases of this type are also usually referred to one of the Committees on Elections for investigation and recommendation, although occasionally special committees are appointed to inquire into the qualifications of a prospective member.[18]

It is important to note that of the sixty-four reports submitted during this period, twenty-three, or more than one third, were announced as unanimous. There may have been more, since in some instances there is no evidence as to whether the action was unanimous or not. In view of the fact that there were at all times three members of the minority party on the committees, this unanimity may be of some significance. Again, it should be noted that since a distinct majority of the reports favored minority party members, the unanimous report in many instances meant that six members of the opposing party

[17] See, for example, the case of James M. Beck (Pennsylvania), 70th Congress.

[18] This was done in Carney *v.* Berger (Wisconsin), 66th Congress.

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had to concur in the action taken. This fact is of some importance in estimating the degree to which they may be suspected of partisan motives.

If it be admitted that the committees on the whole do their work in a comparatively efficient manner, then the number of times the House reverses the committee findings may be an indication of whether the body of the House itself is chargeable with vitiating the procedure. The startling thing in this connection is that only twice in the entire sixty-four cases in this period was the finding of the committee reversed on the floor of the House.[19] Evidence that the work of the committee is usually accepted by the House is also found in the fact that in twenty-six of the sixty-four cases the resolution submitted was adopted without any discussion whatever. In several other cases the discussion on the floor was of the most perfunctory kind, and gave little evidence of bringing up issues of a political nature.

It thus appears that the most important phase of the procedure to analyze is the work of the committees themselves. The House has almost invariably followed their recommendations, and in only one of the two cases where this is not true is there convincing evidence of partisanship.[20] Hence, such traces of political bias as are present must be sought chiefly in the work of the committees. Of course, it should be noted that recommendations made upon the merits by the committees might conceivably be adopted on the floor from partisan motives and by a strictly party division in the chamber itself.

[19] Britt *v.* Weaver (North Carolina), 65th Congress, and Chandler *v.* Bloom (New York), 68th Congress.

[20] This was in Britt *v.* Weaver. The case came up for decision on the Saturday before final adjournment, which was to take place the following Monday. The committee report, called up late on Saturday evening, came from a committee of six Democrats and three Republicans and recommended the seating of the Democrat Weaver. But upon the floor of the House the committee report was reversed and Britt, the Republican, was seated. The explanation is that the membership of the House was very closely divided, 215 Democrats to 212 Republicans, and that at the particular time when the vote was taken on this resolution the Republicans in attendance outnumbered the Democrats. Hence the opportunity was seized to reverse the majority's committee report and seat the minority member. See *Congressional Record*, vol. 61, part 6, p. 6394.

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The amount of time consumed in taking testimony and securing evidence for consideration by the committees has been restricted, in theory at least, in order to secure a more rapid disposition of these cases. The requirements in this respect, as well as the nature and amount of testimony offered, play a vital part in determining the efficiency with which these contests are treated. It is specifically provided by law that all testimony in contested election cases shall be taken within ninety days from the date on which the answer of the contestee is served upon the contestant.[21] These statutory requirements in reference to the prosecution of a contested election are, however, merely directory and not mandatory. This arises from the fact that the Constitution gives to each House the power to determine its own membership, which has been taken to mean that no statute adopted by one Congress or by one House can bind its successors in any except an advisory manner.[22] In ordinary circumstances, however, the contestant has been required to commence and complete his evidence within the time allowed by statute. If further time is required, it must be granted by the House, and is allowed only upon showing a sufficient reason.[23]

After the testimony is printed,[24] the contestant has thirty days in which to file his brief, after which the contestee has thirty days in which to file his. Finally, the contestant, if he

[21] *Revised Statutes of the United States*, chapter 8, section 107.

[22] The authority customarily cited on this point is the case of Reynolds *v.* Butler in the 58th Congress: "It is quite true that the statute providing and limiting the time for the taking of testimony is not binding upon this House, which under the Constitution is the only and absolute judge of the qualifications and elections of its Members. But as has frequently been held it furnishes a wise and wholesome rule of action and ought not to be departed from except for sufficient cause shown, or where the interests of justice clearly require."

[23] Three cases from Chicago in the 67th Congress — Gartenstein *v.* Sabath, Golumbiewski *v.* Rainey, and Parillo *v.* Kunz—may be taken as an indication that procedural requirements have been effectively used against majority contestants and, hence, that they have not been employed merely with partisan ends in view.

[24] The Clerk has the ultimate authority as to what testimony is to be printed, but the committee has direct access to all testimony gathered, and, being bipartisan, is presumed to be interested in examining all relevant material.

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desires, has thirty more days in which to file a reply brief. Then the case is ready to be heard by the Committee on Elections to which it has been referred. Making an average allowance for the action of the Clerk, the time necessary for printing, and other possible delays, it usually takes at least nine or ten months to prepare a case for the committee.[25]

Since these committees are bipartisan, and since a politically impelled member could nearly always find plausible ground for objection in such complicated cases, it would appear that unanimity of action by a committee is a good indication of impartiality.[26] It would also probably be conceded that when a minority member is seated, the opinion, whatever else may be said of it, is hardly partisan. Let us assume for the moment then that seats to minority members are an indication of impartiality, and, further, that unanimous reports also suggest the absence of political influences, at least in the work of the committee itself. Proceeding upon these assumptions, some very interesting results are reached. Of the sixty seats awarded during the period, thirty-eight went to minority members. Of the twenty-two which were given to dominant party members, nine were so decided by unanimous committee action. Adding these, we find that forty-seven of the sixty decisions which resulted in the seating of a member can be considered as impartially determined. This would leave only thirteen of the sixty in which political motives might be suspected. This alone, even if all thirteen were decided upon partisan grounds, would be a distinct improvement upon the conditions noted by earlier writers on Congress. Closer investigation, however,

[25] This has often been pointed out by members of the elections committees. Representative Dallinger on one occasion remarked, "Under the present law governing contested-election cases . . . if both parties take all the time allowed them by the statute and if the committee gives a reasonable time for the consideration of the case, as it should, it is usually a year and a half after the election before the case can be decided." *Congressional Record*, vol. 64, part 1, p. 532.

[26] It might be urged, of course, that the minority members merely neglect to register their dissent, knowing it would be useless. This is of doubtful validity, however, since the minority seldom refuses to join battle in a case giving any evidence of partisanship.

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even further reduces the number of cases in which partisanship may be considered to have dictated the results.

The actual disposition of the cases often imposes a tremendous burden upon the House and its three elections committees. Although the usual procedure involves only an examination of the evidence and testimony gathered, together with consideration of the arguments of the parties, it is frequently necessary for the committee or a subcommittee to go into the field itself.[27] Such excursions ordinarily require the examination by the members of the committee of many disputed ballots and perhaps the recounting of the entire vote of several precincts.[28] Brief reference to such a situation may be of value. The case of Farr *v.* McLane (Pennsylvania)[29] came up for consideration by the Committee on Elections Number One late in the 66th Congress. The committee had been flooded with work during the entire Congress.[30] In addition, the case had not been received until late in the spring, due to the great length of time consumed in taking testimony and preparing the material for presentation. When the case finally came before them the committee members were swamped in a welter of testimony and evidence. There were some 1,371 pages of printed testimony, together with two full mail sacks of exhibits containing voting lists and poll books. In view of the difficulty of the case and the number of districts involved, the committee decided to refer the controversy to subcommittees consisting of two members, one each from the two major parties. The committee proceeded in this fashion until the adjournment in June, started

[27] See, for example, Beakes *v.* Bacon (Michigan), 65th Congress; Steele *v.* Scott (Iowa), 65th Congress; Bailey *v.* Walters (Pennsylvania), 69th Congress.

[28] Thus, in Steele *v.* Scott, *ibid.*, a subcommittee of three found it necessary to recount the entire vote of 72 precincts, involving some 20,000 ballots. See *Congressional Record*, vol. 56, part 7, p. 7354.

[29] *Congressional Record*, vol. 60, part 4, p. 3899.

[30] Chairman Dallinger defended the lateness of the report in these terms: "It is a difficult task to exhaustively investigate and report on one of these contested-election cases, and I want to say for the Committee on Elections No. 1 . . . that no criticism whatever can be justly made against the committee for any delay in this case. This is the sixth report that we have made in this Congress. We have been constantly at work from the time the first session of the present Congress was called down to the present moment." *Idem.*

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again in December, finally was able to submit a report, and then felt constrained [31] to wait until the conference reports on appropriations bills were taken up before bringing in its own report. Ultimately the unanimous resolution of the committee unseating McLane was adopted on the floor, with the result that both Farr and McLane were reimbursed for the term which had then nearly expired. Aside from the merits of the case, this is a good example of the problems with which the committees have to deal. Complex cases, submitted to them at a late date, involving a great amount of physical labor, arising in a session overcrowded with contests,[32] result in the delaying of the committee report and in censure of the committee's action which is perhaps unjustifiable. The situation is indeed unfortunate. But it is by no means the fault of the committees, nor even of political influences in their work. The fact simply is that they are at best but poorly suited to the work at hand. Under any but the most favorable conditions, therefore, the entire process is open to much criticism.

On the whole, it may be said that the handling of these contests by the committees reveals few evidences of outright partisanship.[33] There are some instances in which such charges could be well substantiated.[34] For the most part, however,

[31] The reports of the committees on elections have privileged status, and may be called up for consideration as soon as the committee has reached its conclusion with regard to the case. Occasionally, however, practical reasons dictate that other matters be considered first.

[32] A conception of the labor sometimes required is obtained when one notes that the 73d Congress saw the filing of seventeen contests.

[33] Representative Parker, a Democratic committeeman, made a remark on the floor which indicates in general a view often stated and, surprisingly perhaps, ordinarily followed. "We Democrats on the committee", he said, "are partisan, yes, every one of us. We come from Georgia, from Arkansas, from Texas, and from Louisiana. It is needless for me to say that we are partisan Democrats; but I believe every member of this committee is an honorable gentleman. There is not a thief in the crowd, and I am sure there is not a man holding membership on the committee who would vote to steal an election from anybody regardless of political affiliation." *Congressional Record*, vol. 78, part 7, p. 7461.

[34] Notably Paul *v.* Harrison (Virginia), 67th Congress, *Congressional Record*, vol. 64, part 1, pp. 533 *et seq.*; and Kunz *v.* Granata (Illinois), 72d Congress, *ibid.*, vol. 75, part 7, pp. 7505 *et seq.*

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their significance lies in their solitude. Far more important are the defects arising out of the natural incapacity of a legislature and its organs for deciding cases essentially judicial. It may be concluded that the general unwieldiness of the process, which arises out of assigning to legislators vast labors which they are not primarily qualified to perform, is of much more concern than the apparently dwindling influence of politics in the work of the committees.[35]

Evidences of Partisanship

Perhaps the most obvious place to look for political determination of these cases is in the handling of the contests in the 70th Congress. This was the only Congress in the ten studied which seated more majority party members than those of the minority.[36] A search for evidences of partisanship must naturally seize upon this circumstance for further investigation. This Congress was dominated by the Republican party, and in the course of its existence decided five contested election cases. In each instance it seated the Republican member. On the face of it, this would seem to indicate, or at least to raise the suspicion of, partisan influence. But a closer examination of the cases themselves will serve to qualify, if not destroy, the original impression. Three of them were rather routine decisions in favor of a sitting member.[37] Of the two remaining

[35] An impressive record of impartial committee work was compiled by the Committee on Elections Number One during the 65th and 66th Congresses. During that time the committee had seven cases referred to it. In six of them it was able to present unanimous reports, and in the other the dissent was not by a minority member. Of the seven cases, two resulted in the seat's being declared vacant. Of the five men seated, four were members of the minority party in the House. Also it should be noted that the party leadership had changed hands between the two Congresses, so that any credit due may not be attributed solely to either party. Only once in seven cases did the committee recommend the seating of a majority party member, and then by a unanimous report. All the recommendations of the committee were adopted, which contributed to the result that in these two Congresses as a whole seven out of ten seats awarded went to minority members.

[36] See table on p. 193.

[37] Hubbard *v.* La Guardia (New York) and Wifald *v.* Selvig (Minnesota) were abated—that is, no testimony was submitted or the contestant failed to press his claim, rendering committee action unnecessary or perfunctory. In

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cases, one[38] was decided by a unanimous committee report adopted without discussion. A closer analysis of the case fails to disclose any obvious partisanship in its disposition. The other controversy involved the right of James M. Beck (Pennsylvania) to his seat. This was one of the most thoroughly discussed and heatedly argued cases of the entire period. There was no one contesting the seat, and the only question involved was that of Mr. Beck's right to be sworn in as a member. He had been challenged on the ground that he was not at the time of his election an inhabitant of Pennsylvania, within the meaning of Article I, section 2, of the United States Constitution.[39] The committee to which the case had been referred reported a resolution recommending the seating of Mr. Beck. Immediately a substitute resolution was offered by the minority of the committee. The House was Republican, as noted above, and Mr. Beck was a Republican. After a long debate, the majority report was adopted and Mr. Beck was seated.[40] The arguments on the floor give occasional evidence of political and personal feeling. Partisanship may have played a part in the opposition to Mr. Beck, and it may have played some part in the ultimate disposition of the case. But it cannot be made to appear, either from the evidence or from the discussion on the floor, that it played the decisive part. No Democrat would have been seated had the decision been otherwise, and any Representative from that district in Pennsylvania would almost certainly have been a Republican. It would be difficult to maintain a charge that the case was argued and decided purely upon partisan considerations.

Clark *v.* White (Kansas), the contestant's claims were so poorly prosecuted that there was little doubt where the merits lay, as evidenced by the unanimous committee report allowing the contestant only half his expenses.

[38] Taylor *v.* England (West Virginia).

[39] This is the type of case most strikingly judicial in nature. It involved chiefly the interpretation of a constitutional provision. Such cases, hinging on constitutional or statutory interpretation, emphasize the judicial character of these controversies. Others in this period were Updike *v.* Ludlow (Indiana), 71st Congress, and Lawson *v.* Owen (Florida), 71st Congress.

[40] *Congressional Record*, vol. 70, part 2, p. 1380.

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One aspect of the procedure in these cases which has caused some difficulty and which has given rise to charges of partisanship is the provision for the taking of testimony. The law provides that either party to a contest may designate a person before whom testimony is to be taken. Persons so qualified include judges, justices of the peace, and notaries.[41] In practice, it has been the usual custom to employ a notary public in this capacity.[42] The officer designated is empowered by statute to issue subpoenas to compel the attendance of witnesses and the production of papers.[43] In general, these provisions have worked fairly well, but the possibilities for their abuse by either a politically minded committee or a partisan House are abundantly demonstrated by a decision rendered in the 72d Congress. This was the case of Kunz *v.* Granata (Illinois). The House was Democratic by the slim margin of 218 to 214, and the Committee on Elections was composed of six Democrats and three Republicans. In effect, the committee adopted a recount conducted by Kunz's notary and recommended the seating of Kunz in the place of the Republican sitting member. The House, after a heated debate, adopted this resolution. The decision was perhaps as nearly an outright partisan determination as any that can be found in this period.[44] It seems reasonable to suppose that the power intended to be conferred on the notary public is merely the power to take depositions and certify the testimony of witnesses.[45] Of course a notary public is a commissioned officer under bond and constitutional

[41] *Revised Statutes of the United States*, chapter 8, sec. 110.

[42] Representative Kerr, in the course of the debate on Kunz *v.* Granata, 72d Congress, said: "Let me say to you, gentlemen, that in all the history of these contests nobody has ever been designated to take evidence except a notary public." *Congressional Record*, vol. 75, part 7, p. 7493.

[43] *Revised Statutes of the United States*, chapter 8, secs. 111, 123.

[44] There is substantial doubt whether the notary's authority over "papers" includes the power to recount ballots. See the remarks of Representative Gifford, *Congressional Record*, vol. 75, part 7, p. 7497.

[45] Otherwise there is danger that a notary public appointed by the defeated candidate, sitting in some city remote from Congress, would undertake to recount the ballots in a contested election merely because the defeated candidate so desires, without presenting actual evidence of fraud or irregularity. See the remarks of Representative Estep, *Congressional Record*, vol. 75, part 7, p. 7501.

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oath, but that hardly serves to dispel the suspicion that partisanship may play a part, and indeed may play a leading rôle, as in this particular case. This doubt is enhanced when it is realized that no testimony and none of the ballots—indeed, no evidence at all except the notary's report—were submitted to the committee. It must be admitted that in all probability the case of Kunz *v.* Granata is an example of the misuse of power by both the Committee on Elections and the House itself in order to attain partisan ends. The fact that a minority sitting member was unseated by the dominant party on very flimsy grounds, and the additional circumstance that the debate on the floor reveals spirited partisanship, lead to the conclusion that the decision was dictated by political considerations.[46]

One other case in this period gives undeniable evidence of having been decided on partisan grounds. This was the contest of Paul *v.* Harrison (Virginia) in the 67th Congress. The case came up for consideration shortly before final adjournment and resulted in the unseating of the Democratic member by the Republican majority in the House. An examination of the debates reveals the bitter political struggle waged on the floor.[47] The technical charge against Harrison was that he had received many thousand votes cast by people illegally registered. The division in committee was 6-3 along party lines, and the report

[46] Representative Dallinger, apparently recognizing that the case was likely to be settled upon political grounds, made a persuasive but fruitless appeal for impartiality. *Ibid.*, p. 7505.

[47] Representative Hudspeth, Democrat, remarked in the course of the discussion that he doubted whether even fair-minded Republicans could "get out from under the crack of the Republican whip." He continued, "I know, gentlemen, that the steam roller is greased and ready." *Congressional Record*, vol. 64, part 1, p. 541. The lateness of the decision was another source of bitterness to the Democratic minority, who could see in the action taken only the result of granting to Paul, the Republican, the salary and emoluments of the seat for which he had done nothing. The fact that Harrison had meantime been reëlected to the next Congress caused the decision to have no other effect than to give Paul the money and perhaps the glory of the seat. "It is just as much the policy of the Republican party", charged Harrison, "to take care of its lame ducks down South as it is to call on everybody to make contribution for the appointment they get. . . . Why, what is the Treasury of the United States for? (Laughter) To take care of Republican gentlemen who do not get elected." *Ibid.*, p. 538.

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was argued and decided on the floor largely along the same lines.[48] To make the situation even more striking, it may be pointed out that the man unseated had served in the previous Congress and shortly before the decision of this case had been reëlected to the subsequent Congress. This case must be ranked with Kunz *v.* Granata and Britt *v.* Weaver[49] as one of the three instances in this period in which a charge of partisan determination can be very strongly substantiated.

Corrupt Practices

An interesting problem which sometimes arises is the manner in which the House is to apply the provisions of corrupt practices legislation[50] in the disposition of contested elections. During the period under consideration, the effect of such legislation was almost negligible. It was brought into the discussion in only three cases. Of these, two[51] resulted in dismissal of the charges, while in the third there is some evidence that the legislation was used as justification for a result demanded by party expediency.[52] In this latter case, the debate on the floor of the House upon the unanimous committee resolution is enlightening. The contention was made that if the act were

[48] Representative Hudspeth, who appears to have a sense of humor, compared this decision to some of the arbitrary judgments attributed to the famous Judge Bean—the law west of the Pecos. "I remember", he said, "one decision where a Chinaman fell off the Pecos bridge. He had $50 in his jeans and besides carried a six shooter. Judge Bean had his body brought before him and fined him $50 for carrying a gun. But I have never seen as great an outrage, such a pernicious verdict, such a gross perversion of justice perpetrated by this or any other body—judicial, semijudicial, legislative, or otherwise—and I trust I will never see it again so long as God permits me to live. (Applause)." *Ibid.*, p. 543.

[49] Mentioned *supra*, p. 196.

[50] For an excellent discussion of this legislation, see James K. Pollock, Jr., *Party Campaign Funds* (New York, 1926). Defects of existing federal legislation are treated by Louise Overacker, *Money in Elections* (New York, 1932), esp. ch. xi, pp. 249-288. See also Earl R. Sikes, *State and Federal Corrupt-Practices Legislation* (Durham, 1928), esp. pp. 224 *et seq.*

[51] Rainey *v.* Shaw (Illinois), 67th Congress, and McAndrews *v.* Britten (Illinois), 73d Congress.

[52] Farr *v.* McLane (Pennsylvania), 66th Congress. The fact that the committee report was unanimous reduces any suspicion of outright partisanship. See *Congressional Record*, vol. 60, part 4, p. 3903.

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not enforced in this case, it would become a farce. From the response elicited, one gains the impression that many Representatives seemed tacitly to consider the act more or less a dead letter and were surprised and aggrieved that an attempt should be made actually to enforce its provisions.[53] Despite the fact that the act was cited in this one case as the reason for unseating a member alleged to have violated its provisions, the infrequency of such instances as well as the nature of the discussion indicates that such action is a decided exception to the rule.[54] Thus in the most logical area for the enforcement of corrupt practices legislation, namely, in the handling of election contests, its effects have been almost nonexistent so far as the House of Representatives is concerned.[55] That body has adopted a "stand-or-fall-together" attitude—that to begin a rigorous enforcement of this legislation would endanger the seats of a great many in the chamber and would cause limitless turmoil and apprehension. Since many of the members would like nothing better than to forget the existence of such laws, discussion of them in election contests seems to be avoided almost by common consent. To enforce them in a few instances when they are patently ignored in others would, it is felt, not only be unfair but might draw unwelcome attention to conditions better left unnoticed. The minority appears indignant when the issue is raised, pointing out accusingly that the seats of numerous members would be imperiled by a strict adherence to the law. The result is that corrupt practices as defined by fed-

[53] Representative Bee summarized this attitude when he remarked, "Let me say to you gentlemen that if every man in this House—and I do not look at anybody because I can look anywhere and locate him—who either himself or through his friends for him spent more than the maximum allowed by Congress was unseated, there would be an exodus from the Congress of the United States equal to the exodus of the Democrats on the 4th of March. (Laughter)." *Idem.*

[54] In view of the circumstances, it might be better if the House abandoned completely the attempt to apply the Corrupt Practices Act. The occasional efforts to enforce the legislation lead to mutual recriminations and an unfortunate resort to partisan arguments which damage a record that is on the whole commendable for its lack of partisanship.

[55] This finding has been corroborated with regard to state legislatures as well by Overacker, *op. cit.*, pp. 352-353.

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eral legislation are but rarely made the basis of decision for an election contest.

Conclusions

As a result of this study, one is justified in concluding that the instances in which partisanship clearly governed were comparatively few in the period under consideration. Not only is this indicated by an examination of the statistics, which themselves tell an interesting story, but it is measurably strengthened by a further analysis of the cases themselves. It is apparent that, in view of some of the earlier remarks on the handling of these contests, a great deal of progress has been made in securing their impartial settlement. It is to be recognized, however, that, as Willoughby points out, both the committees and the House "are composed of persons having political affiliations corresponding to the political affiliations of the two parties and under a strong incentive to favor the contestant of their political faith." [56] As long as these contests are considered by committees partisan in composition and decided by Houses made up of partisans, there is danger that the power will be turned to partisan ends.

Perhaps the best indication of impartiality would be depriving a majority member of his seat in order to seat a minority member. There have been few instances of this in the history of these cases.[57] In the period emphasized by this study, the sitting member was deprived of his seat in nine instances. Seven times minority members were unseated [58] and once the contest was between two members of the same party, one running on an independent ticket against the regular party nom-

[56] *Principles of Legislative Organization and Administration*, p. 276.

[57] From the Civil War to 1903 the majority seated 120 to the minority's 88; but it deprived itself of seats only 9 times and the minority 82. Rammelkamp, POLITICAL SCIENCE QUARTERLY (September 1905), *loc cit.*, p. 421.

[58] Beakes *v.* Bacon (Michigan), 66th Congress; Wickersham *v.* Sulzer (Alaska), 65th Congress; Farr *v.* McLane (Pennsylvania), 66th Congress; Wickersham *v.* Sulzer and Grigsby (Alaska), 66th Congress; Paul *v.* Harrison (Virginia), 67th Congress; Wurzbach *v.* McCloskey (Texas), 71st Congress; and Kunz *v.* Granata (Illinois), 72d Congress.

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inee.[59] The only case that appears on the record to have unseated a majority member in favor of his minority opponent has been seen on closer inspection to have done nothing of the kind.[60] Hence it is evident that not once in this period did the party having a majority on the floor vote to unseat one of its own members in favor of the minority contestant. In the seven cases unseating minority members, three were reported from committee unanimously and otherwise indicate a lack of partisanship.[61] In the remaining ones are to be found the most notable examples of partisanship during the entire period.[62] The fact that an acting majority never unseated one of its own partisans in this period is a good indication of why it is generally considered useless for a minority man to contest an election. While a minority returned member is, as we have seen, often confirmed in his seat, rarely will a majority unseat one of its own to seat a minority contestant. Speaker Reed's oft-quoted remark that "probably there is not a single instance on record where the minority was increased by the decision of contested cases" [63] may not be wholly true. Although the instances are very rare, some have been found.[64] It is true, however, that in the period here especially under consideration, 1918-1937, there is not a single case in which a majority member was unseated in favor of his minority opponent.

In addition to the danger of partisanship, however—a danger much less real in recent years—there are other and perhaps more cogent objections to the present mode of handling these contests. As has been noted, the time required for final disposition of these contests is much too long. Even if the committees work with a maximum of efficiency, it is often from twelve to eighteen months after the election before the contest can be settled. In a session in which there are a great number

[59] Tague *v.* Fitzgerald (Massachusetts), 66th Congress.

[60] Britt *v.* Weaver, discussed *supra*, p. 196, in which the nominal minority had an actual majority on the floor when the case was decided.

[61] Beakes *v.* Bacon, Wickersham *v.* Sulzer, and Farr *v.* McLane.

[62] Paul *v.* Harrison and Kunz *v.* Granata.

[63] *North American Review* (July 1890), *loc. cit.*, p. 114.

[64] Rammelkamp, *loc. cit.*

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of contests, this condition becomes almost intolerable. The committees are so burdened that they fall far behind in disposing of the cases. There are two disadvantages in this situation. One is the time element itself. Reports by the Committee which result in the unseating of a member near the end of a Congress are almost invariably attacked as partisan. Whether justified or not, such an accusation usually brings replies in kind, with the unfortunate result that the entire case takes on a political tinge. The other danger is of course that the cases will not be carefully considered by an overburdened committee anxious to make its reports. Closely allied to this objection is that of the expense involved. The law not only allows each contestant his expenses, regardless of the decision reached, but requires the payment of two salaries when a member who has been seated in accordance with the certificate issued him by the governor is later replaced by his opponent. In addition, there is often a considerable item of expense incurred in sending members of the committee to distant regions to conduct recounts.

The manner of taking testimony is open to two objections. The present provision allowing a notary public to take depositions and certify the testimony of witnesses is subject to abuse. As probably happened in Kunz *v.* Granata, this procedure can readily be turned to purely partisan purposes. While the committees have not often been guilty of laxity in this regard, the danger remains. Again, however, aside from partisanship, the desirability of the present procedure is questionable. The fact that the officials designated to take testimony have no power to exclude irrelevant material often results in an accumulation of evidence having little or no bearing on the case.[65] A mass of

[65] Representative Dallinger of Massachusetts, in urging the adoption of a bill to require the filing of abstracts of testimony by the parties, described the situation as follows: "Any gentleman of this House who has served on one of these committees knows the work involved. The case comes to us in the form of printed testimony, usually very voluminous, and because of the fact that the briefs which the law requires the contestant and the contestee to file have been of such character as to be of little or no aid to the committee, the committees have been obliged to go through a voluminous record of testimony, and much of which is irrelevant, which has resulted in much unnecessary delay." *Congressional Record*, vol. 61, part 6, p. 6388.

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testimony is sent to the committees for consideration, containing charges and countercharges, pages of depositions, and many contradictory and irrelevant data. It is impossible for any but the most patient and thoroughgoing expert to reach any conclusions on the issues involved. In view of this situation, it is surprising that the committees did not more often split along party lines without undertaking the laborious task of sifting the mass of evidence before them.

Perhaps the most effective way to solve these problems would be to vest in the federal courts, not only the power to control the preparation and presentation of the case, but the rendering of a decision thereon in the first instance. In this manner the entire process of hearing and deciding the case would be lodged in one body, with many resulting advantages. For example, the taking of testimony would be handled by the same agency which was to decide upon its relevancy and significance.[66] Certainly with regard to the cases involving only questions of statutory or constitutional interpretation,[67] it can hardly be doubted that they should be referred to a judicial tribunal.[68]

[66] Representative Dowell expressed the opinion of one who has had to deal with these cases when he said: "I would favor the taking of testimony before a court or before a referee appointed by the court to pass upon the admissibility of this testimony. I think two-thirds of the testimony in all these cases would be entirely eliminated if a Federal court would appoint a referee to take testimony for both contestant and contestee and determine the admissibility of the testimony. Under the present system a very large part of the testimony is irrelevant and immaterial. Both sides present all kinds of testimony, and it is necessary for the committee to go into it in detail before it is able to determine what is relevant and what is not." *Congressional Record*, vol. 61, part 6, p. 6397. It should be noted that this proposal contemplates only the taking of testimony by a federal court or referee, and would leave the evaluation of that testimony to the committees as before. While this in itself would be a desirable change, it is probable that the two functions are so closely related that it would be advantageous to have the same body perform both. Thus, while Mr. Dowell's proposal would represent an improvement, it perhaps does not go far enough.

[67] Lawson *v.* Owen, Updike *v.* Ludlow, and the case of James M. Beck have been cited as examples of this type of controversy.

[68] Representative Luce of Massachusetts, referring to the Memorial of John Bracken (67th Congress, 1921) in a contested election case, said: "It may be pointed out that this particular case is a perfect illustration of one of the two kinds of questions that come before a Committee on Elections. There is in-

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Judicial handling of the cases would mean that the time necessary for their disposition could be greatly reduced. Instead of waiting for the meeting of Congress and the delay incident to the beginning of a session, the contests might be filed and acted upon almost immediately after the election. The earlier disposition of the cases would prevent the anomaly which sometimes now arises of a man's drawing the salary and performing the functions of a member for almost an entire term, only to be unseated in the last few days, with the consequence that another man who has done nothing in the Congress receives full pay, although deprived of his rights and privileges throughout the entire period. It might be expected also that ill-founded contests would be discouraged, especially as the House came to respect and enforce the court's decisions, due to a more critical attitude on the part of the court, and less readiness to allow expenses where the contestant had little ground for contest. As it stands, the defeated candidate has very little to lose by undertaking to contest an election, whatever the validity of his claims. Many weakly-supported actions would not be started if the contestant were afraid he might have to assume the expense himself.

The problem of taking testimony and the elimination of irrelevant material would obviously be solved so far as the House is concerned. There would, indeed, no longer be a need for elections committees on the same scale, relieving the House of one of the most insistent demands upon its time. The complexity of cases, it is true, would not be lessened, but would not present such an obstacle to a full-time specialized

volved in this case no question of fact. The only questions involved are questions of law. In my own judgment such questions are not most wisely handled either by a legislative body itself or by one of its committees. We are presumed to be qualified to make the law, but the judicial branch of the government is presumed to be better qualified to apply the law. History shows that of all tribunals legislative assemblies are the worst. Even in respect of the other class of problems that confront election committees, involving the ascertainment of facts, we are less advantageously situated than the courts. Ordinarily we can not hear and see the witnesses, and so we lose the benefit of valuable aids in forming judgment as to credibility. Furthermore, the most conscientious legislator may find his vision clouded by the mists of partisanship." *Congressional Record*, vol. 61, part 6, p. 6555.

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body. Legislation dealing with corrupt practices in elections might then be enforced in all its aspects by the same agency, rather than dividing the responsibility in the present unsatisfactory manner.

It must be remembered that Congress would retain the ultimate power to dispose of these cases. Nothing short of a constitutional amendment could change that. It is conceivable, however, that in general the court's ruling would come to command a great deal of respect and would be accepted rather as a matter of course.[69] The situation with regard to the Court of Claims may be a case in point. Even now, as has been noted, reversals of the committee on the floor of the House are few. It may be expected that the decisions of a court would be even less often overturned. As its rulings acquired dignity and as it built up a system of precedent, these cases would come to be decided in a judicial and hence presumably efficient and expeditious manner.

Several proposals of this general nature have been made from time to time in the House.[70] Representative Luce of Massachusetts on October 20, 1921, proposed that the decision of these cases be entrusted as far as possible under the Constitution to the federal district courts.[71] He urged that without

[69] "There is probably no doubt", thought Speaker Reed, "that, if some tribunal were selected by Congress and its decisions were acquiesced in for a few years, there would spring up such a consensus of opinion that ever afterwards the House would cease to do more than record the decisions of the tribunal established in part by itself, or, to speak more accurately, by its predecessor and by Congress. Any law which made the decision *prima facie* would certainly be respected and would certainly work the cure." Reed, *loc. cit.*, p. 118.

[70] Representative Dowell's proposal with regard to taking of testimony has been mentioned, p. 210.

[71] Senator Cutting, in 1928, suggested the establishment of a permanent quasi-judicial commission to enforce corrupt practices legislation, report to Congress on campaign expenditures, and to handle in the first instance all contested Congressional elections. Senate bill no. 4422, 70th Congress, 1st session; *Congressional Record*, vol. 69, p. 8246. Overacker approves of this general idea, and feels that as the prestige of the commission increased it would become "exceedingly difficult" for a legislative body to fail to follow its recommendations. *Money in Elections*, pp. 383-384. This same writer points out that Great Britain has dealt with the use of money in elections more completely

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a constitutional amendment the vesting in the courts of the authority to hear these cases in the first instance could and should be adopted. Emphasizing that Congress would still retain its ultimate authority to pass upon the cases, he asserted that the measure would in practice "greatly relieve us of the labors we are not best fitted to perform." [72]

Doubtless the most thoroughgoing proposal to put these contests on a truly judicial basis was made by Representative Dallinger of Massachusetts. In the 68th Congress, Mr. Dallinger introduced a bill which would vest in the Court of Appeals of the District of Columbia the power to hear and pass upon all contested elections in the House, subject only to final approval by that body.[73] This bill was reported unani-

and effectively than any other country, and that one of the factors contributing heavily to the success of her program is the trial of election petitions by the courts. *Ibid.*, p. 377.

[72] *Congressional Record*, vol. 61, part 6, p. 6555. Similar proposals had been made previous to the period covered in this study. It was suggested in the 53d and 54th Congresses that the duty of deciding who are *prima facie* members be turned over to the federal courts. This recommended that the duty of issuing certificates of election be taken away from the political officials of the states, "who have no special qualifications to decide judicial questions," and be given to judicial tribunals. It was further proposed that the House should be directed to base its decision upon the same record that was passed upon by the courts, with the obvious intent of according to the judicial finding a strong moral influence on the decision of the House. As to the latter body, it was felt, "while its power to reverse any decision made by the courts would be unquestioned, its members would hesitate to make a purely partisan decision and reverse a finding already made by a judicial tribunal." House Report no. 1669, part 1, 53d Congress, 3d session; no. 2234, 54th Congress, 1st session. The bill met violent objection by the Democratic minority, who asserted that it entailed an unconstitutional delegation of legislative power, violated the rights of the states, and threatened the independence of the respective departments. House Report no. 1669, part 2, 53d Congress, 3d session.

[73] H. R. 943, 68th Congress, 2d session (1925). In brief the bill provided that all contests should be filed with the court within 30 days after final determination of the election in the state. The court was to advance the case upon its docket for speedy hearing and if necessary hold a special term to consider it. The findings were to be made before the first assembling of the Congress, or as soon thereafter as possible. They were to be advisory only, and not subject to appeal or judicial review. Rules and regulations established by the court for the conduct of these cases were to have the force of law, with fees, fines, and penalties the same as provided by the *Revised Statutes* in civil cases tried in the district courts of the United States.

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mously by the Committee on Elections Number One, but was not enacted. A measure of this type would dispose of practically all the objections to the present system. Even the question of who are *prima facie* members authorized to organize the House and appoint committees would be taken from the hands of political officers. At the present time this question is decided by state officials, who are almost invariably political appointees and subject to partisan influence. This power to determine who is *prima facie* entitled to a seat may ultimately decide the organization of the House itself. Where no controversy exists, it is entirely proper that the candidate elected on the face of the returns as found by state officials should be able to participate in the organization of the House. Where there is a contest, however, decision by a judicial tribunal would be infinitely more desirable. Under such a proposal, the finding of the court might be accepted in lieu of the certificate of election in making up the provisional roll call for the organization of the House and the election of committees.

Hence, even though the question of partisanship in the decision of these cases is less pressing than often supposed, there are several reasons for desiring a change in the present procedure. The danger of political influence is, of course, always present. But regardless of it, many advantages would accrue in the assignment of these cases to the federal courts for decision in the first instance. This would not deprive Congress of any right nor interfere with its power of final determination. It would, moreover, relieve it of many laborious duties which by nature it is ill fitted to perform. It would ensure that the House would be organized by duly elected members, that at the time of convening the body would have before it a carefully considered recommendation on each case, and that the number of contests undertaken in the belief or hope that the party in power would take care of its own would be greatly diminished. The delay and expense involved in the bringing of frivolous and unfounded contests would be almost wholly avoided. The perplexing problem of the amount of testimony or the manner in which it is to be taken would be entirely removed from the sphere of the House and conferred upon a body eminently

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suited to meet it. Finally, as far as possible under the Constitution, the decision of these cases would then be taken out of the uncertain atmosphere of a political legislative body and vested in a tribunal whose decisions would be less subject to charges of manipulation for partisan purposes. There appear to be no substantial disadvantages to the procedure advocated, other than the possibility that Congress would habitually overturn the findings of the courts and thus undermine their prestige as well as its own. Such fears are probably groundless, in view of the infrequency with which the House has reversed its own committees, and on the basis of the experience with the Court of Claims.

In short, there is no valid reason, except the stubborn practical fact of Congressional inertia, to prevent the adoption of some such measure calculated to produce these salutary results. The recent case of Roy *v.* Jenks demonstrates that, despite the progress in the last two decades, political considerations may still determine the disposition of these contests. Such instances would serve a useful purpose if they could destroy the indifference with which this whole matter is surrounded and lead to the devising of effective means for improving the present procedure. Although occasionally legislators of unusual perception recognize the problem and make some effort toward its solution, it is probably naïve to hope that Congress will seriously attempt to remedy such an obscure and unsensational difficulty. If this be true, one must be consoled with the thought that recent years have shown much improvement, and that a tradition may eventually be constructed which, if not perfect, will at least serve to confute the more serious charges that have been directed toward this type of legislative justice.

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STRIFE IN THE MARITIME INDUSTRY

THE labor problems facing the maritime industry are many and varied. Some of these problems are the result of historical conditions which have surrounded the industry; while others are the outcome of the recent growth of unionization, plus the factionalism and jurisdictional warfare engendered by the division in the ranks of organized labor. The maritime industry is one of the most important in the United States. Not only is it important in the development of foreign commerce, and as an auxiliary to national defense, but the prosperity of certain sections of the United States is closely tied to maritime transportation.

In 1934, 293,000 workers, directly or indirectly engaged in interstate or foreign shipping, were divided among the following employments:

Employments	*Number*
Employed on vessels	114,000
Stevedores and longshoremen	110,000
Other shore employees	69,000

Of this number approximately 145,000 were employed in foreign, coastal, or inter-coastal operations; 25,000 were employed on the Great Lakes; and 15,000 on inland waterways.[1] A competent and disciplined labor force is indispensable for an effective merchant marine, for, besides the element of safety, labor costs range from 54 per cent of total costs on vessels of

[1] Federal Coordinator of Transportation, *Wages, Hours and Working Conditions in Domestic Transportation*, vol. II, pp. 12-14; Dr. Constance Kiehel, of the Social Security Board, is of the opinion that the above figures taken from the census underestimate the number of employees in domestic water transportation, as "a considerable proportion of vessels are not in any port on the day the count is taken, and seamen on shore elude the enumerator's vigilance." She estimates that in 1937 approximately 164,000 workers were employed on documented and undocumented vessels.

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less than 250 tons, to 17 per cent of total costs on vessels of more than 9,000 tons.[2]

In addition to the seamen, it is necessary to consider the conditions which surround the longshore worker and stevedore, as their relations to the industry and union affiliation are important factors in determining the labor conditions in the industry. The work of the longshoreman consists in the loading and reloading of ships, and the degree of employment is dependent upon the arrival and departure of shipping. This factor has introduced an element of uncertainty into this work, though efforts have been made for a long time to eliminate or minimize it. The union which organizes these workers has often sought to enlarge its jurisdiction, as one way of meeting the problem of discontinuous employment.

Aboard ship an entirely different type of worker is employed. The unlicensed personnel, comprising the majority of the workers, is employed in three divisions: deck, steward and engine. The deck division is responsible for the maintenance of the ship, keeping the gear in shape, moving and lowering cargo, painting, etc. Engine men look after the firing and cleaning of boilers, blowing of tubes and keeping the boilers in working order; while the stewards' department is charged with the preparing and the catering of food. The unlicensed men belong to the same union, but usually the organization has been divided into divisions, so as to facilitate the discussion of the problems of the job. Despite many technical changes the seafarer retains some of the old "romantic" individualism. He is ready to quit his job for a "session" on the beach. The labor turnover among seamen has been found to be excessive. Though the great majority regard their occupation as permanent, very few remain on a vessel for a long time. An investigation has revealed that frequently seamen who report eight or ten years of service have not remained on any one vessel for more than four months.[3] Yet despite certain peculiarities, the seaman's attitude resembles that of the land worker. The

[2] *Ibid.*, pp. 16-17.

[3] United States Maritime Commission, *An Economic Survey of the American Merchant Marine*, November 1937, p. 45.

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most important reason for the present state of unsettled labor relations is the decline of wages and the deterioration of working conditions, which followed the elimination of the union after the strike of 1921. The subsequent withdrawal of the government from the shipping industry brought with it a steady reduction of wages and deterioration of working conditions. In the middle of the depression "some American seamen were receiving as low as $25.00, living under wretched conditions, eating unpalatable food, and working 12 hours or more a day."[4]

Prior to 1921, unionism had existed in the maritime industry for many years. On the docks, the International Longshoremen's Association had jurisdiction. Organized on the Great Lakes in 1892, the union succeeded in winning a considerable measure of job control in Atlantic, Gulf and Pacific ports. Aboard ship, divisions of the International Seamen's Union, with a history stretching back to 1885, represented the unlicensed seamen. This union reached its peak membership of more than 100,000 in 1920. Both the longshore and seamen's organizations were officered by trained and cautious executives, whose conservative outlook and temper restrained extravagant demands and unreasonable action.

As the present labor difficulties have arisen, in a large measure, from the destruction of the power of the waterfront unions after the World War, it is desirable to summarize the major incidents in their decline. The International Longshoremen's Association lost control of the Pacific coast waterfront as a result of strife which originated in 1916 on the San Francisco docks. An agreement was finally reached, but in May 1919 the union served notice of its desire to terminate the arrangement. Demands for wage increases and improvements in working conditions were presented. The employers refused to make the concessions. A strike followed, and the union was defeated. Simultaneously, the longshoremen's union in all of the Pacific coast ports ran into stormy weather. The open shop movement was making great headway, and within two years all

[4] *Ibid.*, p. 46.

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of the ports on the Pacific coast, except Tacoma, Washington, were being operated on the basis of the open shop. In San Francisco, the main port of the west coast, an independent union, the Longshoremen's Association of San Francisco and the Bay Region, known as the "blue card", arose in 1919. Immediately after its organization, the independent group was given a five-year contract by the waterfront employers. Its status was somewhat anomalous, as it was admitted into the San Francisco Labor Council in 1927 and retained its affiliation until 1931, when the protests of the national officers of the International Longshoremen's Association forced it to sever its relations with that central body.[5]

The seamen suffered an even more serious setback in 1921. While the longshoremen's organization managed to maintain a certain amount of control on the east coast, the seamen were defeated on a nation-wide scale, as a result of their refusal to accept a general wage cut. Following this defeat, unionism aboard American ships suffered a rapid decline, and the membership of the International Seamen's Union dropped from more than 100,000 in 1920 to 23,000 in 1923.[6] Immediately a movement for greater unity between the seamen and the shoreside unions was launched. The leaders of the seamen, mindful of the attempts of the longshoremen to encroach upon their jurisdiction, looked upon this movement with great suspicion. A close alliance between the sailors and the workers on the shore could only lead to the domination of the seamen by other groups. A purge of the advocates of closer unity took place; but expulsions failed to increase the strength of the union, even if it did eliminate heterodox notions. In fact the expulsions pushed many active unionists into the Industrial Workers of the World, whose waterfront section, as a consequence, experienced a strong revival.[7] The I. W. W., however,

[5] Paul Eliel, *The Waterfront and General Strikes* (San Francisco, 1934), p. 6; *Hearings Before the National Longshoremen's Board*, 1934, p. 12.

[6] Leo Wolman, *The Growth of American Trade Unions* (New York, 1924), p. 127.

[7] Selig Perlman and Philip Taft, *History of Labor in the United States, 1896-1932* (New York, 1935), p. 495.

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was never able to win any large measure of job control. Yet it maintained a vigorous and persistent propaganda upon the waterfront, which has had a striking effect upon the minds of many workers. Moreover, many of the leaders of the present-day unions were schooled in the " wobbly " brand of unionism, and the old philosophy has made it possible to belabor their communist opponents on the waterfront with charges that they were not honest union men, but agents of a political party.

Organized labor on the waterfront staged its first revival on the Pacific coast. Following the enactment of the National Industrial Recovery Act, the International Longshoremen's Association sent organizers to San Francisco. By September 1933, enough members had been secured to warrant the chartering of Local 38-79. Soon afterwards the Pacific Coast District of the International Longshoremen's Association was set up. Dissatisfaction with conditions came to the surface, and after several postponements, caused by government intervention, the first coast-wide waterfront strike took place on the Pacific coast in the summer of 1934. This strike involved the longshoremen and all of the seafaring crafts, and it led to the establishment of strong unions in all branches of the Pacific coast maritime industry.[8]

On the Atlantic coast, the longshoremen's union had been able to maintain considerable control all through the twenties. Early in 1934, the seamen's organization gained sufficient strength to make demands for collective bargaining. The shipowners refused, and it was only the threat of a strike and the intervention of the National Labor Relations Board which overcame the shipowners' reluctance to deal with the union. The strike, scheduled for October 8, 1934, was postponed, and negotiations for improvements in wages and working conditions were begun by the heads of the International Seamen's Union and twenty-eight shipping companies, operating out of Atlantic and Gulf ports, whose aggregate tonnage totaled 2,500,000 tons. Substantial improvements in wages and working conditions were subsequently granted, and it marked a great victory

[8] *Seamen's Journal*, July 11, 1934, pp. 97-98.

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for the International Seamen's Union, which had been denied any important recognition for fourteen years. The communist Marine Workers' Industrial Union was not satisfied with the settlement, and attempted to call the marine workers out on strike. Its attempt failed.[9]

The communist union exercised no greater influence on the Pacific coast. In the balloting for representatives for collective bargaining on the Pacific coast tankers, held under the auspices of the National Longshoremen's Board, the Marine Workers' Industrial Union polled 24 out of a total of 977 votes cast.[10] Soon afterwards the communist union decided to disband, as a result of a change in the trade-union line of the Communist International. Instead of organizing groups rivaling the existing unions, the followers of the "party line" were now urged to join the existing shoreside and seafarers' unions. Needless to say this change of policy was not welcomed by the leaders of the old line unions, who remembered their unhappy experiences with radical groups in the twenties.[11]

In the meantime the Pacific coast maritime workers moved toward closer affiliation. At the close of the maritime strike of 1934 the San Francisco marine crafts formed an informal joint council. Gradually all of the maritime unions became affiliated. Since this council was informal and local, a movement was launched to organize a formal and coastwise federation of all the waterfront unions. At a preliminary conference held in February 1935, plans were laid for a convention later in the year at Seattle, Washington, which formed the Maritime Federation of the Pacific. This federation, made up of the several maritime groups, was designed to bring about coöperation between the waterfront unions and to eliminate jurisdictional disputes.[12]

The Pacific coast maritime workers soon showed their militant temper. Not only did they manifest that lack of discipline frequently found among the newly organized, but they dis-

[9] *Ibid.*, Oct. 1, Nov. 1 and Dec. 1, 1934, and Jan. 1, 1935, p. 1.

[10] *Ibid.*, Dec. 1, 1934, p. 177.

[11] *Ibid.*, May 1 and Aug. 1, 1935.

[12] *Voice of the Federation*, April 14, 1938.

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played strong hostility to the old leaders of the waterfront unions. Both of these manifestations seemed to indicate that the radical doctrines concerning union function and management, and the rôle of union leaders, had taken considerable root among the waterfront workers. Charges leading to the expulsion of the editor of the *Seamen's Journal,* an officer of the International Seamen's Union for more than a quarter of a century, reflected the suspicion and hostility against the old officers. The new members, many of whom had gained their initial union experience in the Industrial Workers of the World, resorted to "job action" which violated the spirit and the tradition of the more conservative seamen's organization. Job action meant the "quickie" strike which was, of course, in violation of contract. Meeting in convention in February 1936, the International Seamen's Union decided to call its erring affiliate to task, and revoked the charter of the Sailors' Union of the Pacific, on the ground of its "continued and deliberate violation of constitution and law," and because the Pacific coast branch had permitted believers in dual unions to join its ranks and refused to live up to its awards and agreements. Another complaint against the Sailors' Union of the Pacific was that it had refused to disaffiliate with the Maritime Federation of the Pacific Coast.[13] The Sailors' Union of the Pacific managed to prosper despite lack of affiliation with a national organization. Its membership in the Maritime Federation of the Pacific Coast gave it strong and strategically-placed allies, and its expulsion from the International Seamen's Union failed to affect its efficiency. In fact the national seamen's organization recognized its error in expelling its effective Pacific coast affiliate and was ready to take it back into the fold upon any terms, but the Pacific coast sailors, flushed with victory, declined the generous offer. The Sailors' Union of the Pacific thereby became an independent organization of Pacific coast seamen.[14]

At the same time the longshoremen of the Pacific coast were getting rid of their conservative leaders in a more conventional

[13] *Seamen's Journal,* August 1, 1935, and Feb. 1, 1936.

[14] *Ibid.*, August 1 and Sept. 1, 1936.

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fashion. In June 1936 Harry Bridges became president of the District Council of the Pacific Coast District of the International Longshoremen's Association.[15] The longshoremen, in common with the other Pacific coast maritime crafts, were in an aggressive mood, and were not in sympathy with the conservative policies of the national officers. They also resorted to sudden stoppages of the "quickie" variety, and they were in constant dispute with the employers over the handling of "hot cargo".[16]

Both the Pacific coast seamen's and the shoreside unions were controlled by what might be regarded as left-wing administrations. Despite their common anticapitalist bias, serious differences between the seamen and the longshoremen soon appeared. Some of these differences were ideological, as the sailors' leaders considered labor relations largely from the anti-parliamentary view of the I. W. W.; while a number of the leaders of the longshore group looked with favor upon the trade-union doctrines of the Communist Party.[17] It is likely that these differences would never have gone beyond a doctrinal level, if there had not arisen serious jurisdictional conflicts between the sailors and the longshoremen. Immediately after the strike of 1934, a dispute arose over the working of cargo on steam schooners. The sailors maintained that their right to work this type of vessel had been recognized for fifty

[15] *Western Worker*, July 13, 1936.

[16] Goods originating or processed at some point in a plant involved in a labor dispute; *Arbitration Under Award of United States National Longshoremen's Labor Board*, Sept. 27, 1935. This question was an important issue in the strike of 1936.

[17] This does not mean that any of the leaders are members of the Communist Party, but that they are inclined to favor the trade-union policies of that organization. They are, in any case, "fellow-travelers", those who go along with party policy, but are themselves not members. An examination of the *Voice of the Federation*, dominated by the Pacific coast longshoremen, shows that the paper gives considerable space to left-wing political opinion. Some of the leaders also contribute to the *Daily Worker*, the chief English-speaking communist daily. Several of the leaders of the Sailors' Union of the Pacific had at one time been members of the Industrial Workers of the World. Moreover, membership in the marine branch of the I.W.W. was at one time recognized on vessels controlled by the S.U.P.

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years, and they called upon the authority of Samuel Gompers to validate their claims. Another source of difference was the conflicting jurisdictional claims of the sailors and the Inland Boatmen's Union of the Pacific, the members of which are employed on tugboats, scows and other harbor craft. The longshoremen have supported the claims of the harbor workers in their disputes with the sailors, and as a countermove the Sailors' Union of the Pacific organized a harbor workers' section.[18] These jurisdictional differences were accentuated by the existence of serious unemployment among waterfront workers. The excess of men over jobs is perhaps the basic difficulty along both the Pacific coast and Atlantic coast waterfronts. According to the president of the Pacific Coast Shipowners' Association the fleets of his organization can employ a maximum of 16,300 men under present conditions; while the total membership of the Pacific coast marine unions—licensed and unlicensed deck, engine and steward—is 23,000. Normal labor requirements are therefore exceeded by 7,000, and even if conditions should become normally favorable, one third of the membership of the seamen's unions is destined to remain on the "beach".[19] The Sailors' Union of the Pacific recognizes that a considerable percentage of its members cannot get steady employment. It has, therefore, established a "rotary" hiring system. Whenever a man comes ashore, he is registered at the union headquarters, giving the date he left his ship and the name of the vessel. Whenever a job is available, the man longest on the register will receive it, if he is qualified.[20] The jurisdictional struggle which had been carried on by the longshoremen and the seamen when the unions were led by "conservative" leaders reappeared under more "progressive" auspices. Now, however, a new factor, differences in ideology and political outlook, has been introduced.

[18] *West Coast Sailor*, June 4 and Sept. 10, 1936; American Federation of Labor, *Proceedings*, 1907, p. 110.

[19] Almon E. Roth, "Pacific American Merchant Marine", *Pacific Marine Review*, March 1935, p. 27.

[20] "Statement of Harry Lundeberg, Secretary-Treasurer of the Sailors' Union of the Pacific", before the *House Committee on Merchant Marine and Fisheries, 75 Congress, First Session on H. R. 121 and 143, 1937*, p. 29.

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While the Pacific coast waterfront was in ferment, serious difficulties were arising on the east coast. The opposition to the old line officers rose to the surface in an unauthorized strike on the S. S. California, a vessel belonging to the International Merchant Marine Company, at the port of San Pedro, California, on March 2, 1936. The crew demanded conditions equal to those prevailing on the Pacific coast and agreed to go back to work upon the promise of Secretary of Labor Perkins that their grievances would be adjusted promptly after the return to their home port, New York City. Upon their arrival in New York the members of the crew were docked from two to six days' pay for disobeying the master's orders, and they were also refused reëmployment by the company. The action of the company was a signal for a strike, which soon spread to other vessels in the port of New York. Officers of the International Seamen's Union immediately brought their full force against the walkout, and threatened to expel from the union all those who joined in the "outlaw" move.[21] The strikers demanded that the walkout be recognized as a bona fide labor dispute and that the union allow them to meet in union halls.

In the meantime the International Seamen's Union was busy on another front. While the outlaw strike was going on, it negotiated a contract which granted a five dollar a month increase in wages to engine and deck crews, and a ten dollar a month increase to the stewards' division. This fell short of the demand that Atlantic coast wage scales be brought up to those on the Pacific coast.[22]

The insurgents now challenged the agreement that had just been negotiated. Joseph Curran, later to become the head of a new seamen's union, requested that the shipowners allow a referendum vote among the seamen on the acceptance of the agreement. He offered to abide by the outcome. His request was declined by the spokesman for the shipowners, who insisted that "if the union is not satisfied with what its leaders achieved that is a matter for the union to consider, the contract stands as far as we are concerned."[23]

[21] *The New York Times*, March 3-21, 1936.

[22] *Ibid.*, March 11, 1936.

[23] *Ibid.*, April 17, 1936.

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For the insurgents the strike was not only a struggle for higher wages, but a maneuver to embarrass the national officers of the seamen's union. The officers, on the other hand, were determined to impose discipline on the membership, lest the contract-violation undermine the recently won concessions and recognition. The strike dragged on. Though not fully successful, it created more than a little havoc on the Atlantic and Gulf coasts. Toward the end of May the leaders of the insurgents were offering terms upon which they agreed to end the "illegal" walkout. Finally the strike was brought to a close upon the promise that no strikers would be discriminated against in reëmployment. But A. J. McCarthy, Vice-President of the International Merchant Marine Company, announced that this pledge would not apply to some of the men whose conduct on the S. S. California had precipitated the outlaw walkout.[24]

The insurgents felt that the ten-week strike had been worth while. It had been directed mainly against the officers of the union, who were accused of failure to gain a favorable contract. A more ominous note was the threat to join the Pacific coast seamen, if a strike should materialize on September 30, 1936, at the expiration of the Pacific coast contract. This threat became reality in the last days of October, as soon as the maritime strike on the Pacific coast was called. Sit-down strikes on a number of vessels in New York harbor began. The movement was directed by the Seamen's Defense Committee, whose chairman was Joseph Curran. It was designed to force the officers of the International Seamen's Union to nullify the Atlantic coast agreement. The outlaw strike was fairly effective all along the Atlantic and Gulf coasts. Ten days after the calling of the walkout it was reported that sixty-eight ships and 7,553 men were idle in the different Atlantic and Gulf ports.[25] After two and a half months of struggle the seamen on the east coast took steps to end their walkout. Their action, they claimed, was based on assurances by the

[24] *Ibid.*, May 27-30, 1936.

[25] *Ibid.*, Oct. 30, 31, and Nov. 1, 10, 1936.

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National Labor Relations Board that elections to determine collective bargaining representatives would be called despite the agreement negotiated by the officers of the International Seamen's Union on the Atlantic coast. Furthermore, the insurgents faced financial difficulties. The strike was therefore formally ended on January 24, 1937. It gained nothing, in increased wages or improved working conditions, but the leaders of the walkout boasted that it had discredited the old union officials.[26] The insurgent leaders sought to take over the name of the International Seamen's Union for the new union they were forming, but when they were prevented by the courts, they called themselves the National Maritime Union of America. A district committee, made up of three representatives from each division—deck, engine and steward—was selected to manage the affairs of the new organization, and plans were made for the calling of the first constitutional convention.[27] The National Maritime Union immediately questioned the right of the older organization to represent the seamen on the east coast, and filed requests with the National Labor Relations Board for elections to determine collective bargaining representatives. At first the International Seamen's Union was willing to enter such a test, but upon second thought, the officers refused. The Board nevertheless decided to hold elections to determine which union should represent the seamen on the Atlantic and Gulf coasts. Beginning June 1, 1937, elections were held on east coast steamship lines.[28] The fears of the officers of the old union were amply justified by the outcome of the elections.

The National Maritime Union was not affiliated, at first, with the Committee for Industrial Organization. However, it showed decided sympathy for that movement, and later formally affiliated with it. On both the Atlantic and Pacific coasts, there now existed seamen's unions hostile to the American Federation of Labor. Both of them were "progressive";

[26] *Ibid.*, Jan. 20-25, 1937.

[27] *Official Proceedings Before the N.L.R.B. International Merchant Marine vs. National Maritime Union*, pp. 46-49.

[28] Press Release by National Labor Relations Board, June 11, 1937.

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but the interests of labor and industry could be best served by a single seamen's union, with branches on the several coasts and the Great Lakes, on the order of the International Seamen's Union. In other words, the organizational structure of the old International Seamen's Union was well designed to minimize the possibility of jurisdictional warfare and to facilitate the transfer of union membership among sailors who spend sometime on each coast and occasionally migrate between the Great Lakes and the coasts. Two factors, however, interfered with this apparent natural unity. The first one was the distrust of the leadership of the National Maritime Union prevalent among many of the influential members of the Sailors' Union of the Pacific, who suspected the new leaders of the east coast seamen of being closely allied to the Communist Party. A second complicating factor was the rise of the Committee for Industrial Organization, which encouraged each side to hope that it would be supported in expanding its activity on a national scale. At first the Sailors' Union of the Pacific welcomed the rise of the Committee for Industrial Organization, believing that the Committee would lend it financial and moral support. In any plans for a national maritime union, the Sailors' Union expected to play a major rôle. Therefore, when the question of a national maritime federation under the auspices of the Committee for Industrial Organization was discussed at the convention of the Maritime Federation of the Pacific Coast, Harry Lundeberg, Secretary-Treasurer of the Sailors' Union of the Pacific, expressed himself as being favorable to such a program; but he urged that the movement assure the autonomy and the independence of his organization.[29] An attitude of this kind was far from unreasonable. After all, the Pacific coast seamen had established an efficient organization, which had won important concessions for its membership. Its fight for such assurances was based upon its accomplishments. Moreover, the Sailors' Union leaders did not relish the methods employed by the C. I. O. in calling conferences, and appointing leaders without consulting the membership. They pleaded for

[29] *West Coast Sailor*, June 18, 1937.

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more democratic procedure, as they wished to avoid dominance from above. Another early source of suspicion was the dominant rôle played by the leaders of the Pacific coast longshoremen's union in the promotion of the conference sponsored by the C. I. O. The Pacific coast shoreside unions had voted to affiliate with the C. I. O., and their leader, Harry Bridges, had been appointed west coast director for the latter organization.

Sufficient guarantees of autonomy were not forthcoming. Instead a conference of all maritime unions was called by John L. Lewis in June 1937, for the purpose of forming a national federation of all maritime crafts. The Sailors' Union of the Pacific refused to send a delegate. The conference failed, and subsequent meetings have also been unsuccessful in bringing the maritime workers together into one national federation. The failure of the Pacific coast sailors to join in the attempt to form a national federation of waterfront crafts aroused the anger of some of the leaders of the other marine organizations; several of them threatened to organize a dual seamen's union on the Pacific coast, unless the sailors went along with the C. I. O.[30] The threat did not persuade the Pacific coast sailors to accept a program of national unity. Always fearful of the encroachment of the longshoremen and the harbor workers upon their jurisdiction, they now felt that an alliance made under duress would place them at the mercy of their traditional opponents, who, because of their superior voting power in a national federation, would be able to slice off parts of the seamen's jurisdiction.[31]

This fear, coupled with the desire to expand on a national scale, led the Sailors' Union of the Pacific to repudiate its vote favorable to affiliation with the C. I. O., pending further discussion of the question. The C. I. O. maintained a noncommittal attitude on the proposal of the Pacific coast sailors that they be given a national charter, holding that this question should be decided by the maritime workers of all coasts. This

[30] *Voice of the Federation*, July 15, 1937; *West Coast Sailor*, July 16, 1937. It is reported that some of the leaders of the C.I.O. needle trades unions advised against Bridges' appointment as west coast director.

[31] *West Coast Sailor*, Aug. 27 and Sept. 3, 1937.

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attitude did not meet with the approval of the Sailors' Union of the Pacific, and the estrangement between the two groups developed into open hostility.[32] In the main the differences were due to jurisdictional quarrels, going back many years before the present leadership appeared on the scene. These differences, sufficiently serious under normal conditions and accentuated by the depression in shipping, were complicated by the doctrinal differences developing between the leaders of the Pacific coast shoreside and sailors' organizations.

The failure of the Sailors' Union of the Pacific to join the movement for a national federation of maritime workers, sponsored by the C. I. O., virtually torpedoed the efforts of the maritime organizations favorable to that scheme. Moreover, the S. U. P., not being able to satisfy its ambitions for a national charter in the ranks of the C. I. O., began to approach the American Federation of Labor with that end in view. Its terms of affiliation were the following: complete autonomy and a national charter for all unlicensed seamen; the right to negotiate its own agreement; no assessments for political purposes; the right to use the referendum ballot in deciding internal questions; and no check-off was to be used by the organization.[33] The only term of any importance was the granting of a national charter, and as the American Federation of Labor had failed to establish an effective opposition to the National Maritime Union on the east coast, it was ready to issue a national charter to any group that could effectively harry the C. I. O. affiliate. As for the other conditions, they were only window dressing, for the Federation has always allowed its autonomous unions to decide their internal government.

The C. I. O. found itself in a more difficult predicament. It had supported the National Maritime Union throughout that organization's early struggles for recognition. Therefore, the Union could not be ignored in any sincere effort for national unity. It had the largest organization numerically, and it had proved its ability to act as spokesman for the east coast sailors

[32] *Voice of the Federation*, Aug. 5, 1938.

[33] *West Coast Sailor*, Oct. 8, 1937.

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by overcoming, against considerable odds, the officials of the International Seamen's Union. However, the Sailors' Union of the Pacific was biding its time and waiting for favorable offers. It did indicate, rather forcibly, that it would not permit itself to be dominated by the other maritime unions. Consequently it sponsored a Seafarers' Federation, on a national scale.[34]

Developments on the east coast have, however, made a peaceful extension of the Sailors' Union of the Pacific extremely unlikely. The National Maritime Union has organized over 50,000 seamen and has succeeded in establishing control over an overwhelming majority of east coast shipping lines. This has been recognized by the shipowners, who have, on several occasions, negotiated coast-wide agreements with that body.[35] The existence of two seamen's unions, independent of each other, will inevitably lead to friction and jurisdictional wars. The seaman frequently moves from one coast to another, and it would mean that he would have to join two unions, unless there existed mutual recognition of each other's membership. The National Maritime Union has attempted to bring about more cordial relations, mutual recognition of respective membership, and coöperation; but the Sailors' Union of the Pacific has persistently rebuffed these peaceful overtures. Warfare is even more apt to ensue when one of the unions aspires to enlarge its job territory, at the expense of the other. The Pacific coast sailors have already shown, in no uncertain terms, that they intend to dominate the unlicensed seamen. In February 1938 they began to force members of the National Maritime Union off the boats reaching the Pacific coast. This led to the threat of retaliation, and finally in self-defense, the National Maritime Union, despite its anxiety to maintain peaceful relations, was forced to open halls on the Pacific coast.[36]

A more serious break between the two maritime unions subsequently developed over the control of the unlicensed personnel

[34] *Ibid.*, Feb. 18, 1938.

[35] *The Pilot*, April 30 and August 12, 1938.

[36] *Ibid.*, April 29, 1938; *New York Post*, Feb. 3, 1938.

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on the Shepard Line. The Sailors' Union of the Pacific maintained that it possessed jurisdiction. The National Maritime Union, however, claimed that the majority of the crews of the vessels of this Line belonged in its ranks and asserted that an election conducted by the National Labor Relations Board —which had been ignored by the Sailors' Union of the Pacific —had clearly shown that a majority of the unlicensed crews were its members. Nevertheless, the Pacific coast group called a strike. The first test came in San Francisco, where the longshoremen—though belonging to the same federation as the Sailors' Union of the Pacific—were favorably inclined to the National Maritime Union. They therefore refused to honor the picket line set up by the Sailors' Union of the Pacific around the Sea Thrush. A bloody struggle ensued, which was a bad omen for the future solidarity of the sailors and longshoremen. Upon the vessel's arrival in New York, members of the Sailors' Union of the Pacific again threw a picket line around the boat. This time they were aided by the longshoremen belonging to the International Longshoremen's Association, an American Federation of Labor affiliate, who refused to unload the vessel until the seamen belonging to the National Maritime Union were replaced. Each union charged the other with attempts to invade its jurisdiction. Following the replacement of the east coast seamen by those affiliated with the Sailors' Union of the Pacific, the National Maritime Union called a 24-hour protest strike in New York harbor, as a warning to the shipowners that further attempts to replace its members would be met by strong resistance.[37] The support of the east coast longshoremen was, in the main, a strategic maneuver to drive a deeper wedge between the Pacific coast longshoremen and sailors. It served its purpose, for the seamen of the Pacific coast became more convinced that they must find allies, if they were to avoid being invaded by the C. I. O. sailors and longshoremen. This instance gave the leaders another argument to break down the reluctance of some members to affiliate with the American Federation of Labor. Since

[37] *West Coast Firemen*, May 17, 1938; *The Pilot*, June 3, 1938.

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then the officers of the Sailors' Union of the Pacific have been given jurisdiction over all seamen and fishermen of North America by the American Federation of Labor, and the Seafarers' International Union of North America has been chartered as the means of bringing all seamen within the A. F. of L.[38] Headquarters have been opened in a number of Atlantic and Gulf ports, and the new group is on the alert for opportunities to invade the jurisdiction of the other seamen's unions.

The first result of the intensified struggle has been the weakening of the Maritime Federation of the Pacific Coast, as a result of the withdrawal of the Sailors' Union of the Pacific. This action leaves the sailors free to support any insurgent group that may attempt to organize an opposition to the International Longshoremen's and Warehousemen's Union. The unity which formerly enabled the maritime workers in the Pacific coast area to resist strict accountability, for their "quickies" and other actions objectionable to the employer, has now been dissolved.

The inter-organization difficulties facing the unions may have a tendency to bring about greater caution and discipline. The leaders are already urging their members against impetuous conduct that will enable another union to seize the jobs. Now that the unions are in open antagonism, the head of the Sailors' Union of the Pacific warned his members that, if they failed to abide by their contracts, their jobs would be taken by the longshoremen. Similarly, the National Maritime Union urged that a contract offered by the American Steamship Owners' Association be accepted because of the threat made by the Sailors' Union of the Pacific to invade the east coast.[39] Also the willingness of Bridges' organization, the International Longshoremen's and Warehousemen's Union, to make concessions and guarantee discipline is partly influenced by the uncertainty of the conduct of other maritime crafts.[40]

[38] *The Seafarers' Log*, Feb. 10, 1939.

[39] *West Coast Sailor*, July 8, 1938; *The Pilot*, August 12, 1938.

[40] *The Pilot* had expressed its fears of a strike on the Pacific coast on a number of occasions. It was relieved when an agreement was reached between

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In addition to the declaration of war by a rival organization, the National Maritime Union faces another threat. Its own ranks have been seriously split during the voting for national officers. A "rank and file" faction arose to "save the union from Communist domination." A vigorous compaign was launched by the opposition, and toward the end of the election period there were several violent clashes between the two factions. A *Rank and File Pilot* was published for the duration of the campaign, and the burden of its appeal was to rid the union of Communists. The insurgent faction won the majority of places on the District Committee, which runs the affairs of the union between conventions. Some changes have been introduced into the management of the official organ, and the editor, suspected of Communist sympathies, has been displaced. Recently the fight between the factions has been renewed in less virulent form, with the rank and file element losing ground because of ineffective leadership.

The outlook for a successful solution of the inter-union problems seems dim indeed. The basic difficulty is that the fight is one for jurisdiction and personal power. The Secretary-Treasurer of the Sailors' Union of the Pacific explains his affiliation with the American Federation of Labor as a "deal", while he expresses his contempt for the officials of the latter organization.[41] He has not forgotten his I. W. W. background, for one of his complaints against the C. I. O. is that it signs a large number of contracts in one industry—steel and automobile—instead of having one uniform arrangement throughout the entire industry. Yet he has not allowed that objection to interfere with his affiliation with the American Federation of Labor. The evidence seems clear that the dispute, at least between the two sailors' unions, is due largely to ambition and union imperialism. A serious complicating factor is the split in the labor movement, for otherwise the issues between the sailors and the longshoremen would not

the longshoremen and the employers of the Pacific. *The Pilot*, Sept. 16-23, 1938.

[41] *Northwest Organizer*, June 9, 1938; also in a letter to the New York Secretary of the Marine Transport Workers Industrial Union, No. 510, I.W.W.

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have led each to sponsor an organization within the jurisdiction of the other.

This struggle is in part a reflection of the differences which affect the entire labor movement. As long as funds and encouragement are given for the invasion of jurisdictions, ambitious leaders will utilize the opportunities to extend their power. From the point of view of the maritime worker, or the labor movement in general, the struggle is most unfortunate. It can only lead to the loss of work and earnings by both labor and the industry. It is true "that the shipowners themselves are in no small measure responsible for the present unfortunate situation. . . . The shipping industry is now paying for its shortsightedness in repressing labor for so many years." [42] Refusing to deal with the old conservative leaders of the Furuseth-Olander type, they helped to break down their authority. The situation on the waterfront is such that any articulate waterfront worker can gain a following in the unions. The newness of the membership makes them less amenable to discipline, and the officials are, in many cases, either unwilling or unable to restrain the more radical members.

These difficulties come at a most unpropitious moment from the standpoint of the waterfront workers. Perhaps for the first time in many years, they have an opportunity of introducing a system of industrial government, founded on trade agreements with reciprocal rights and duties. The creation of the Maritime Labor Board would ordinarily have helped the growth of normal collective bargaining. Patterned on the Railway Mediation Board, it seemed possible for the Board to make an important contribution to peaceful industrial relations in the maritime crafts. The difficulty that the Board faces is that the union members, and even most of the officers of the marine unions, are new and inexperienced; and that the officers have not yet developed the authority to compel the members to accept an unpopular decision when given in good faith. Unlike the railroad unionists, who are seasoned veterans of organized labor willing to abide by the discipline of their unions, the

[42] *An Economic Survey of the American Merchant Marine*, p. 46.

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maritime unionists are mainly raw recruits who have not yet overcome the suspicion of union leadership generated by the radical spokesmen on the waterfront.

Should the maritime unions insist upon engaging in large-scale strikes for jurisdictional advantages, they may be inviting stringent governmental regulation. With the development of an effective merchant marine as an important aspect of national policy, and with the heavy subsidies being devoted to that purpose, the interest of the federal government goes even further than the mere maintenance of industrial peace. The unions on the waterfront have a great responsibility, not only to their members, but to the general labor movement. They are under obligation to prove that labor not only seeks more power but that it is willing to assume the greater responsibility which that power entails.

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THE EMERGENCE OF UNEMPLOYMENT COMPENSATION I

THE advent of unemployment compensation in an era of marked activity in all fields of social and economic legislation has tended to obscure the antecedents of this new form of social insurance legislation. While unemployment compensation in the United States is distinctly a legislative phenomenon of the middle thirties, it was actively proposed and discussed throughout a period of two decades before the depression. It may therefore be asked: To what extent are the unemployment compensation laws products of the activity of recent or earlier years? This question may conveniently be resolved into the narrower queries: (1) What general factors led to the emergence of the unemployment compensation acts, irrespective of their particular content? (2) What were the sources of the particular types of provisions found in the acts and the theoretical considerations, if any, that governed their emergence? In these questions, a distinction is made between the emergence and the development of the acts, the development being held to begin—in the full sense of the term—after their passage. The first and second sections of this paper will be concerned with the emergence of the acts and the third and final section with their course of development.*

* The term *unemployment compensation* will be used more or less synonymously with *unemployment insurance,* since there is as yet no settled theory on the basis of which a clear-cut distinction can be made. In practice, the two terms have been used sometimes as though there were a sharp difference and sometimes indiscriminately. At present, the Social Security Board employs only the former term, while in some states, such as New York, the latter is habitually used.

The author is indebted to Dr. Eveline M. Burns for advice in preparing this study. Miss Irma Rittenhouse, Professor Leo Wolman and Professor Paul H. Douglas have made available their recollections of the movement for unemployment compensation.

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I. *The Emergence of the Unemployment Compensation Acts*

In contrast to the very long incubation of unemployment compensation, its arrival was sudden. Compulsory legislation first became of interest in America following the passage of the British Unemployment Insurance Act of 1911. For the greater part of the next twenty years it was a subject of academic inspection, marked by little expectation of governmental action. But, beginning with 1935, in a space of two and a half years, fifty-one jurisdictions adopted such legislation. This chronology suggests a history conditioned by the occurrence of significant changes in the controlling economic, political and social factors.

Throughout the period of uneventful discussion of unemployment compensation, it is notable that with few exceptions the attitude of government, employers and organized labor was negative. There is, therefore, little to be said about the early rôle of government. In the years preceding the depression, no administration, state or federal, paid any particular attention to unemployment insurance, and it was not unnatural that no official commission was designated to look into unemployment compensation as such, apart from other related subjects.[1] The major political parties manifested no interest; and there is record only of the broad endorsement of social insurance by the

[1] Commissions which discussed unemployment insurance before 1920 were the New York Wainwright Commission (1911), the Chicago Mayor's Commission on Unemployment (1914), the Chicago Municipal Markets Commission (1914), the Oregon Committee on Seasonal Unemployment (1914), the Commission of Immigration and Housing of California (1914), the federal Commission on Industrial Relations (1915), the Massachusetts Committee on Unemployment (1916), the New York City Mayor's Committee on Unemployment (1916, 1917), the California Social Insurance Commission (1917), the Massachusetts Special Commission on Social Insurance (1917), and the New York Reconstruction Commission on a Permanent Unemployment Program (1919).

The tenor of opinion of these commissions was that unemployment insurance was not undesirable as a theoretical proposition, but that practicably there were numerous reasons why it could not be advocated at the time. Details of the reports of some of these commissions are available in Stewart, B. M., *Unemployment Benefits in the United States* (New York, 1930), pp. 570-573.

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Progressive Party of 1912[2] and the introduction of a social insurance bill by the Socialist Party in 1921.[3]

The part played by organized labor and employers was a prelude to the real drive for unemployment compensation. Through the efforts of these groups, acting both separately and in conjunction, it is possible to trace a small movement for voluntary unemployment insurance, which in the course of time shaded into one for compulsory unemployment insurance. This movement was begun by labor, even before the present century, in various trade union out-of-work benefit schemes,[4] some types of which are still existent today.[5] Joint insurance plans in which both employers and unions participated may also be found in evidence at an early date,[6] but they experienced their greatest vogue during the twenties.[7] In that period the

[2] The party platform called for "the protection of home life against the hazards of sickness, irregular employment and old age through the adoption of a system of social insurance adapted to American use."

[3] Assembly bill, Int. No. 849 (New York, 1921).

[4] A summary of the main studies on the trade union unemployment insurance systems reveals that three national and six local unions are known to have paid unemployment benefits before 1910; that between 1910 and 1919, unemployment benefit plans were adopted by three national and fifteen local unions; between 1920 and 1929, by twenty-nine locals; and by fifteen locals in 1930 and 1931. An estimate of the number of workers covered by these plans in 1928 was 34,700 and in 1931 about 45,000. In 1934, three national and thirty-eight local unions were recorded as paying benefits. *Cf.* Stewart, *op. cit.;* Bulletin of the United States Bureau of Labor Statistics No. 544, *Unemployment Benefit Plans in the United States and Unemployment Insurance in Foreign Countries* (1931); and Bureau of Labor Statistics, *Operation of Unemployment Insurance Systems in the United States and Foreign Countries* (1934). See also Armstrong, Barbara Nachtrieb, *Insuring the Essentials* (New York, 1932), pp. 531-536.

[5] An inquiry conducted by the Bureau of Labor Statistics in August 1937 among the unions which had operated plans in 1934 brought replies from twenty-four, seventeen of which were still maintaining the plans. "Unemployment-Benefit Plans in 1937", *Monthly Labor Review*, October 1937, p. 841.

[6] There was a guaranteed employment plan in the wall-paper industry in 1894. Forsberg, A. R., *Selected Articles on Unemployment Insurance* (New York, 1926), p. 429.

[7] A study made by Industrial Relations Counselors, Inc., in 1934 disclosed that in the decade 1921-1931 twenty-six joint agreements to establish unemployment benefit plans were made in eight industries. *An Historical Basis for Unemployment Insurance*, p. 66. In 1931, there remained sixteen such agree-

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plans worked out and operated by employers on their own account also approached their fullest development.[8] Like the joint plans, they aimed either to provide benefits to temporarily laid-off employees or to guarantee employees a stipulated period of employment or wages each year.

The movement for voluntary unemployment insurance never attained appreciable proportions in this country. It was pointed out in 1932 that "even with the inclusion of the General Electric Company, a larger percentage of the British workers have the advantage of establishment insurance in addition to their regular insurance benefits under the general compulsory system of Great Britain than is represented by the American workers benefited by the establishment insurance plans in this country."[9] The significance of the voluntary movement, therefore, does not lie in its actual accomplishments but rather in its effect on the discussion of compulsory unemployment insurance. Wherever labor and employers were actually interested in unemployment insurance, it was in their own plans. While the preference of employers for plans linked to their respective establishments is easily understandable, the negative attitude of labor toward compulsory unemployment insurance is explicable only in terms of its broad position that compulsory social insurance against any risk confronting the industrial population was inconsistent with its stated aspirations.[10]

ments in effect, covering an estimated number of 65,000 workers (Bulletin of the United States Bureau of Labor Statistics No. 544, p. 6). Of the five joint plans in effect in 1934, all were found operating in August 1937. *Monthly Labor Review*, October 1937, p. 841.

Most of the initiative for the joint plans seems to have been provided by the unions. Notable examples were the efforts of the International Ladies' Garment Workers Union in Cleveland and the Amalgamated Clothing Workers of America and the Cloth Hat, Cap and Millinery Workers' Union in New York. *Cf.* Stewart, *op. cit.*, part II, section II.

[8] From the above studies, it appears that up to 1934, thirty-eight firms at one time or another adopted unemployment benefit or employment guarantee plans and that in 1931 there were fifteen such plans in operation, covering about 50,000 workers most of whom came under the plan of the General Electric Company of New York. By August 1937, fifteen of the twenty-two company plans in force in 1934 had been discontinued.

[9] Armstrong, *op. cit.*, p. 540.

[10] See the discussion of "labor's philosophy in regard to unemployment" in

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Samuel Gompers, the president of the American Federation of Labor, regarded compulsory unemployment insurance as economically unsound and politically a potential invasion of the liberties of the working class.[11] In 1916, he fought a Congressional resolution for the appointment of a commission to investigate social insurance, because the subject was to be *compulsory* social insurance, and declared that he would not be opposed to an investigation of "the subject of social insurance of a voluntary character and how far it can be established in the United States with such aid as the Government can give."[12] Gompers' extreme attitude toward compulsory social insurance did not receive unanimous support from organized labor,[13] but his philosophy probably had much to do with the refusal of the American Federation of Labor to endorse compulsory unemployment insurance before 1932.[14]

From another viewpoint, the status of unemployment insurance in the pre-depression period was determined less by the preference for voluntary plans, which accomplished little, than by the psychological temper that gave credence to currently popular conceptions of the appropriate method of dealing with the problem of unemployment. During the crisis of the early

Kiehel, Constance A., "Security of Job Tenure and Trade-Union Out-of-Work Benefits, 1926-1929 and 1930-1933", *American Economic Review*, September 1937, pp. 454-455.

[11] See his testimony in *Hearings before the Committee on Labor . . . on H. J. Res. 159*, House of Representatives, 64th Congress, 1st session (1916); his articles "Voluntary Social Insurance v. Compulsory" in the *Federationist* in 1916; his speech in American Federation of Labor, *Report of Proceedings of the Forty-First Annual Convention*, 1921; and Forsberg, *op. cit.*, pp. 306-311.

[12] Stewart, *op. cit.*, p. 571.

[13] In 1915, the New York State Federation of Labor memorialized the state constitutional convention "for power to enable the State to insure workers against accident, sickness, invalidity, old age and unemployment." New York State Federation of Labor, *Proceedings*, Fifty-Second Annual Convention, August 24-27, 1915, p. 124. In 1923, John L. Lewis, president of the United Mine Workers of America, proposed an unemployment insurance scheme to President Harding's Conference on Unemployment. Forsberg, *op. cit.*, p. 422.

[14] For a summary of the resolutions on social insurance placed before the Federation from 1904 to 1932, see *Hearings before the Committee on Finance*, United States Senate, 74th Congress, 1st session, on S. 1130 (1935), pp. 1204-1217.

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twenties, as in the depression of 1913-1914, there was a pronounced renewal of interest in the subject of unemployment. The most explicit evidence of the prevailing temper appears in the writings of Professor John R. Commons.[15] Like Samuel Gompers, Professor Commons opposed unemployment insurance on the British or European model for philosophical as well as economic reasons. Discussing the European systems, he wrote: "These theories and practices in Europe have been based upon the idea, first, that unemployment is something inevitable and that, this being the case, a philanthropic system to aid working people when out of work should be established; second, that the state should both contribute to the fund and operate the insurance business." The fallacy of these doctrines, he held, was that they "placed the responsibility upon the state instead of solely upon the employers", who could prevent unemployment, whereas the former could only partly relieve it.[16] In other words, Professor Commons conceived the pressing problem of unemployment to be that of stabilizing employment, which could be undertaken by business itself: "Modern business can stabilize seasonal employment if it is deemed worthwhile, and can even stabilize the credit cycle."[17]

Professor Commons' belief that unemployment could be regularized, and the charitable type of unemployment insurance made unnecessary, was perhaps a phase of a larger interest in the subject of business or capitalistic stabilization.[18] It may be

[15] See his articles "Capitalism's Greatest Weakness", "Compensation Liability the Way to Prevention", "The Business Man and the Preservation of Capitalism", in Forsberg, *op. cit.* Also his testimony in *Hearings before the Senate Committee on Education and Labor*, 70th Congress, 2d session, pursuant to S. Res. 219 (1929).

[16] Forsberg, *op. cit.*, pp. 164-165.

[17] *Ibid.*, p. 51.

[18] It was on such broad grounds that the bodies studying unemployment in the twenties considered unemployment compensation. In 1921, President Harding's Conference on Unemployment recommended "definite programs of action that will lead to elimination of waste and more regular employment in seasonal and intermittent industries, notably in the coal industry, in order that the drain upon capital may be lessened and the annual income of workers may be increased." *Report of the President's Conference on Unemployment* (Washington, 1921), p. 23. An Economic Advisory Committee on Unemployment and

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suggested that the widespread consideration of his proposal flowed from the business optimism that characterized the twenties. No one was able to foresee that there would shortly descend a flood of uncontrollable unemployment. It would have been unprecedented, at that time, to plan for drawing the apparatus and funds of government into the field of unemployment relief.

But the interest in stabilization was not merely academic, and, at least in Wisconsin, considerable thought was devoted to the particular means by which employment could be stabilized. According to Professor Commons, proper state legislative action might prod business men into undertaking stabilization programs, and together with others he worked out a legal form to achieve this end. This form was embodied in the so-called "Huber bills", which were introduced in Wisconsin in 1921 and regularly thereafter. The provisions of the Huber bills represented points of departure from both European unemployment insurance and American workmen's compensation, but presumably by analogy with the latter were designated as unemployment compensation.[19] The general idea of the bills was to exert pressure on employers, through taxation varying with their employment records, to regularize their employment; the payment of compensation or benefits to

Depression reported to the Conference that "any forms of unemployment insurance which would create an economic motive to regularize employment is worthy of consideration." *Ibid.*, p. 167. Later, a continuing committee of the Conference reported that "the idea of employer, employee or both, contributing during periods of employment to a reserve fund under separate or joint control to help sustain the worker when unemployed in periods of depression and to equalize and stabilize his purchasing power merits consideration." President's Conference on Unemployment, *Business Cycles and Unemployment* (New York, 1923), p. 21.

[19] The full title of "workmen's compensation" is "workmen's compensation insurance" and indicates that the primary aim is insurance-protection (against the contingency of accident). Since the Huber bills stressed the prevention of unemployment, they might more properly have been designated "unemployment prevention", or "unemployment prevention compensation"—i.e., as compensation resulting from the operation of an unemployment prevention system. "Unemployment compensation insurance" would have been misleading since the insurance phase of the system, as will be seen later, was quite subordinate. "Unemployment compensation" left things vague.

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workers was a distinctly subordinated objective of the proposed system. Though failing of passage, the Huber bills marked the first legislative step in the direction of compulsory unemployment compensation,[20] and, being copied in other states,[21] served to further discussion throughout the country.

Neither the Huber bills nor the voluntary unemployment insurance plans succeeded in rousing a widespread movement for unemployment compensation. So long as the country continued prosperous, it would have been anomalous had unemployment compensation experienced a more rapid development than other forms of social legislation, such as workmen's compensation. All that could have been expected before the depression was a slow, state-by-state development, with the customary whittling down of conservative opposition, conversion of legislators or parties and, perhaps, amendment of state constitutions to offset adverse court decisions, together with an eventual adjudication of the issue by the United States Supreme Court.

The flood of unemployment rising in 1929 completely washed out this traditional route of state social legislation. It swept in new forces which carried unemployment compensation to a point beyond all earlier expectations. From 1930 onward, a comprehensive movement for unemployment compensation was accelerated by (1) the radically changed attitude toward the unemployment problems in this country, and (2) the forced and unforeseen entrance of the federal government into the field of unemployment relief. These new factors were of great significance. Both the problem of unemployment and the relationship of the federal government to the states, in the domain of social-economic legislation touching on that problem, grew complex overnight. In the face of the exigencies of the situa-

[20] The bills, 53 S., 103 S., 296 A. and 276 A., introduced in 1923, 1925, 1927 and 1929, respectively, were voted on several times, but were never passed by either house of the legislature. Reproductions of the bills may be found in *Hearings before the Senate Committee on Education and Labor* (1929), pp. 265-278.

[21] Between 1921 and 1930, 14 bills modeled more or less on the Huber bills were introduced in Connecticut, Massachusetts, Minnesota, Pennsylvania and Wisconsin.

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tion, the time for planning was brief and the pressure for action was great. Unemployment compensation seemed to provide a "ready-made" course of action, although a few years had to elapse to prove that the exigencies, which it presumed to meet, were permanent.

The very early stages of the depression were marked by strictly emergency legislation. Though the unemployment problem loomed large, it was hoped that with the upturn of the business cycle the problem would somehow pass away. In the meantime, during the period of waiting for the employment indices to revive, both the state and federal governments embarked on general and unemployment relief programs to aid the victims of the depression. This step, though qualified as temporary, was significant in three respects. First, it meant that government was drawn into an activity hitherto reserved for private philanthropy; in other words, a sharp break was made with the individualistic tradition that had consistently impeded the development of social legislation. Secondly, the rapid financial involvement of government to the extent of several billions of dollars, appropriated and borrowed to meet continuing needs for relief, made other social legislative measures in or near the same field seem much less momentous in comparison; a country already enduring this tremendous expense was all the more ready to consider proposals, such as unemployment compensation, which involved considerably smaller sums and under which the moneys expended would be accumulated in good times. Thirdly, the unsatisfactory quality of the emergency relief measures laid a favorable basis for the proposal of substitute or supplementary devices, that had the advantage of being permanent by design and, therefore, less wasteful.

For these and other reasons, unemployment compensation secured a hearing in the early thirties. At first it appeared that a time of heavy and increasing unemployment, offering no prospect of early improvement, was not propitious for the inauguration of an unemployment compensation system—especially when the essential rudiments of public employment agencies scarcely existed. But the seriousness of the crisis and the dissatisfaction with existing relief systems made for rapid

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advancement of unemployment compensation measures. Moreover, interest was stimulated by larger issues than those relating to the strategies of the relief situation. For, the long-standing objections to governmental intervention in the economic field were now being subdued by the force of obvious fact. The inability of private industry to cope with unemployment proved a powerful argument in favor of letting government tackle the problem.

The first product of the changing attitude toward the rôle of government in the attack on unemployment appeared not unnaturally in the state of Wisconsin. Through an energetic campaign launched in 1931, the proponents of the unemployment prevention movement were able in January 1932 to secure the passage of an unemployment compensation measure,[22] which differed considerably from the Huber bills. But the new type of provision was less significant than the fact that in deference to the employers the effective date of the legislation was made "conditional on industry's failure to establish a fair voluntary system within a reasonable time."[23] Employers within the state were given until June 1, 1933, to adopt private unemployment benefit plans covering at least 175,000 workers, failing which the act was to take compulsory effect. Should the quota be reached, the employers who had acted would be obliged to continue operating their plans, while other employers could adopt similar plans or not, as they saw fit.[24] Thus the depression appears to have been the cue for the introduction of unemployment compensation in Wisconsin. In

[22] The history of the movement for the Wisconsin act is set forth fully in Ewing, John B., *Job Insurance* (Norman, Oklahoma, 1933).

[23] This was the recommendation of Governor LaFollette to the legislature which passed the act. *Ibid.*, p. 47. It was first suggested by the governor after the Wisconsin Manufacturers' Association had declared itself in opposition to compulsory unemployment insurance and in favor only of voluntary plans and after a conference between state officials and leading state manufacturers in the fall of 1931 had revealed the latter steadfast in their opposition. Communication from Mr. Howard F. Ohm, Chief, Wisconsin Legislative Reference Library, June 22, 1936.

[24] Wisconsin Industrial Commission, *Handbook of the Wisconsin Unemployment Compensation Act and Approved Voluntary Plans for Unemployment Benefits or Guaranteed Employment* (Madison, 1932), p. 7.

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earlier years, organized employer opposition had successfully blocked all action, and in later less depressed years might have done so again. At the critical time in 1932, however, it was less easy for the opposition employers to disparage a measure which merely sought to induce them to prevent future unemployment and which was couched in reasonable terms of compromise.[25]

But as subsequent events in Wisconsin and elsewhere showed, the fact of the depression could not bring about the actual emergence of unemployment compensation. While the unemployment problem now appeared in a different light and while much favorable sentiment for unemployment compensation had been created, the business depression militated against the establishment of adequate systems, whether voluntary or compulsory. This was illustrated by the rapidity with which employers gave up the voluntary plans of the pre-depression years, as well as by the slowness with which employers in Wisconsin moved to set up such plans under the state unemployment compensation act. So slow were the latter that a year after its passage, the act faced either repeal or postponement.[26] Outside of Wisconsin, there was a good deal of pre-

[25] It was only after the Wisconsin act had been passed by the assembly and when passage by the senate seemed probable that "business interests (mainly represented by Roger Sherman Hoar, South Milwaukee, and F. H. Clausen of Horicon) dropped their attitude of unyielding opposition and cooperated in preparing amendments to meet their most serious objections." (Communication from Mr. Ohm, cited above.) Before this time, Mr. Hoar had long been opposed to unemployment insurance. See his paper, "Why I Am Opposed to Unemployment Insurance", which was read before the 1923 Wisconsin State Senate. Forsberg, *op. cit.*, pp. 373-382. Mr. Hoar dedicated his book, *Unemployment Insurance in Wisconsin* (South Milwaukee, 1932), "to those public-spirited individuals who for ten years endured obloquy to save the State of Wisconsin, and the Nation, from compulsory unemployment insurance, and thus paved the way for the present unemployment reserve law, with its provisions for voluntary plans."

[26] Communication from Mr. Ohm cited above. Acting on Governor Scheideman's recommendation for postponement, the 1933 Wisconsin legislature set the effective date of the act ahead to July 1, 1934 under these conditions: the voluntary plans which employers had to adopt to preclude the taking effect of the compulsory provisions now had to cover only 139,000 of the state's estimated 300,000 workers, and under no circumstances was the act to become compulsory until business recovery was well under way. Definite evidence of recovery was

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liminary activity in the years 1931 to 1934 which, without the advantage of ten years' momentum, failed to produce results as material as the legislative half-start in Wisconsin. Part of this activity, consisting of the drafting of model legislative bills establishing state unemployment compensation systems, was sponsored by private organizations.[27] In a number of states official commissions, many of which studied unemployment compensation exclusively, reported in the main in favor of the legislation, although they differed considerably on the more important provisions.[28] As a result of this work and the support now given to the movement by the American Federation of Labor,[29] by several state federations of labor,[30] and by the

to be a twenty per cent increase in the number of manual workers or a fifty per cent increase in their payrolls (sections 1 and 4, chapter 186, Laws of 1933). Despite the amendments, by the end of April 1934, only 376 employers with fewer than 50,000 employees had submitted plans, and of these the plans approved as meeting the conditions of the act covered less than 10,000 workers. *New York Times*, July 8, 1934. Although the act finally took compulsory effect on July 1, 1934, "it is still permissible for an employer to adopt a voluntary unemployment compensation plan subject to the approval of the Wisconsin Industrial Commission." Letter from Wisconsin Industrial Commission printed in Commerce Clearing House, Inc., *Unemployment Insurance Service*, p. 52,064, Report 238.

[27] See Douglas, Paul H., *Social Security in the United States* (New York, 1936), pp. 14-16.

[28] The author has record of 35 such commissions making reports in 19 states between 1930 and 1936. The more important of these were the New York Committee on Stabilization of Industry for the Prevention of Unemployment (1930), the Wisconsin Legislative Interim Committee on Unemployment (1931), the Interstate Commission on Unemployment Insurance Appointed by the Governors of Connecticut, Massachusetts, New Jersey, New York, Ohio, Pennsylvania and Rhode Island (1932), the Pennsylvania State Committee on Unemployment Reserves (1933), the New Hampshire Commission on Unemployment Reserves (1934), and the Connecticut Governor's Commission on Unemployment Compensation (1936).

The differences of the commissions will be considered in detail in the second section of this paper. For the present, it may be noted that the Wisconsin school of thought which stressed unemployment prevention was opposed by the Ohio school which, while not rejecting prevention, placed the emphasis on the insurance aspect of unemployment compensation. For a time the proposals of the two schools were distinguished under the terms *unemployment reserves* and *unemployment insurance*, respectively.

[29] At its 52d annual convention in November 1932, the American Federation

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Democratic Party,[31] unemployment compensation bills managed to win passage in one house of the legislature in seven[32] of the twenty-seven states where bills were introduced in 1933.[33] In 1934, few legislatures were in session and there was little state legislative activity.

Between 1931 and 1934 the movement for unemployment compensation attained sizable proportions, compared to its pre-depression status. But the fact that not a single law had been produced outside of Wisconsin indicated the existence of obstacles that could not be overcome merely through the assertion of a changed attitude toward unemployment and the accompanying lowering of resistance to unemployment compensation proposals. One major obstacle in the way of realization of the proposals, which were for the most part state-wide in extent,[34] was the fear that if one state took action, while others did not, the unemployment compensation tax levied on

of Labor approved of compulsory unemployment insurance. Simultaneously its long opposition to social insurance came to an end.

[30] As soon as the American Federation of Labor endorsed unemployment compensation, the New York State Federation of Labor began to press for the legislation in New York. In 1933 and 1934, it won the support of the state Democratic administration and secured the passage of a bill, which it had drafted, in the Democratic house of the legislature. *Cf.* New York State Federation of Labor, *Proceedings*, 69th Annual Convention (1932), p. 115; 70th Annual Convention (1933), pp. 70-72; *New York Times*, January 28 and April 9, 1933.

[31] In June 1932, the Democratic Party included in its national platform the plank "We advocate . . . Unemployment Insurance and Old Age Pensions under State Laws."

[32] California, Connecticut, Maryland, Minnesota, New York, Ohio and Utah. There is also record of a South Carolina bill (H. 427) which provided for unemployment benefit for textile workers and which passed one house in 1929.

[33] A table showing the number of bills and number of states in which bills were introduced between 1916 and 1936 is given in Social Security Board Publication No. 14, *Unemployment Compensation What and Why?* (Washington, 1937), p. 22.

[34] After 1928, Berger, La Guardia, Lewis and others introduced Congressional bills providing for a national system of unemployment insurance, but the only one of these to attract significant attention was the Lundeen bill. On the latter, *cf.* Douglas, *op. cit.*, pp. 74-83; also *Hearings before the Committee on Labor*, House of Representatives, 73d Congress, 2d session on H. R. 7598 (1934).

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a local industry would handicap it in interstate competition. Another obstacle was constitutional: in the earlier years of the depression, it was uncertain whether the state or federal constitutions would permit the legislatures to deal with unemployment in the terms represented by unemployment compensation.

It became apparent, therefore, that the unemployment compensation movement would have to secure stronger support than had been mustered so far in comparatively few states through the activities of private individuals and organizations. Particularly, the essential prerequisite of further material progress was the reversal of the passive attitude of the federal government toward unemployment, at least toward those phases of the problem directly relevant to unemployment compensation. This attitude had been typified in the reduction of the United States Employment Service to a skeleton status after the War [35] and in the negative findings of various Congressional committees.[36] With the advent of the Democratic national administration in 1933, the federal government rapidly assumed a positive and leading part. In the spring of 1933, the Wagner-Peyser Act provided for a new employment service in the Department of Labor and for grants-in-aid to encourage

[35] Social Security Board, *Social Security in America* (Washington, 1937), p. 428.

[36] In 1928, the United States Senate Committee on Education and Labor investigated the subjects of unemployment, unemployment insurance systems and unemployment reserve funds. It concluded (1) that governmental interference in the establishment and direction of unemployment insurance together with foreign systems was unnecessary and undesirable at the time and (2) that employers should adopt private unemployment benefit systems. *Hearings before the Senate Committee on Education and Labor* (1929), p. 11.

In 1932, the Republican majority of the Senate Select Committee to Investigate Unemployment Insurance reported that "the subject of unemployment insurance is not within the sphere of congressional action" but that "some form of reserves for the relief of the workers of the country should be provided by individual employers, with the possible cooperation of employees, and not by the Federal Government, or by the States." The recommendation was made, however, that contributions to unemployment reserve funds might be credited against federal income tax payments through Congressional action in order to stimulate the formation of such funds. Senate Report No. 964, 72d Congress, 1st session, p. 51.

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the states to make provision for affiliated state services.[37] Even more unprecedented was the growth of federal interest in furthering the movement for state unemployment compensation. The obvious aid that the federal government could render was to break up the current state legislative impasse, or to make it possible for the willing states to adopt unemployment compensation without disadvantage, even though other states were not ready for legislation. The discussion of ways and means of effecting this end, initiated by the introduction of a bill by Senator Robert F. Wagner [38] in January 1934, was continued by the Committee on Economic Security appointed by the President in June 1934 to draft a wide social security program and culminated in the passage of the Social Security Act in August 1935.[39] The method of inducing the states to enact unemployment compensation embodied in the new act was the so-called "tax-credit" or "tax-offset" plan, which had proved very effective in the field of inheritance taxation. It involved the levy of a tax on the payrolls of specified employers in all states, with the proviso that ninety per cent of the tax would be credited to them if they paid a similar tax under an approved

[37] By the end of 1934, 22 state employment services had affiliated with the new federal service. *Cf. Social Security in America,* pp. 431-432. It may be observed that there was no very close relationship between the employment service movement and the unemployment compensation movement, although the British experience indicated that the insurance system and the employment exchanges were integrally related.

[38] Senator Wagner had previously sought to encourage the legislation in bills permitting employers to credit unemployment compensation contributions against their federal income tax (*cf.* S. 5350, 71st Congress, 3d session, 1930, and S. J. Res. 26, 73d Congress, 1st session, 1933) and in a bill providing for federal appropriations to states with unemployment reserves or insurance systems satisfactory to the federal government (*cf.* S. 5634, 71st Congress, 3d session, 1931). Senator Wagner's earlier ideas on the necessity for the legislation appear in his dissent from the majority findings of the Senate Select Committee to Investigate Unemployment Insurance (*cf.* Senate Report No. 629, 72d Congress, 1st session, 1932).

[39] These events are fully discussed in Douglas, *op. cit.*, pp. 21-125, and in Witte, E. E., "An Historical Account of Unemployment Insurance in the Social Security Act", *Law and Contemporary Problems,* January 1936. While it would be superfluous to recount the events again, their significance will be brought out in another connection.

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state unemployment compensation law.[40] Thus, employers were now placed in a position whereby opposition to the enactment of unemployment compensation would result in their paying a tax into the federal treasury to no special end.

The tax-offset provision of the Social Security Act achieved its purpose, but not before a remarkable invocation of state legislatures in special session had taken place. It has been stated previously that the arrival of unemployment compensation was long pending and then sudden. This chronological peculiarity may be seen in the accompanying table.

UNEMPLOYMENT COMPENSATION LAWS
IN ORDER OF ENACTMENT

Date of Enactment	*State*
1932	
January 29	Wisconsin
1935	
April 25	New York
May 29	New Hampshire
June 25	California
August 12	Massachusetts
August 14	*Social Security Act*
August 28	District of Columbia
September 14	Alabama
November 15	Oregon
1936	
March 18	Indiana
March 23	Mississippi
May 5	Rhode Island
June 6	South Carolina
June 29	Louisiana
August 6	Idaho
August 29	Utah
October 27	Texas
November 20	Colorado
November 30	Connecticut
December 2	Arizona
December 5	Pennsylvania
December 12	Oklahoma
December 16	New Mexico
"	North Carolina
December 17	Maryland
December 17	Ohio
"	West Virginia
December 18	Maine
"	Tennessee
"	Virginia
December 22	New Jersey
"	Vermont
December 24	Iowa
"	Michigan
"	Minnesota
"	South Dakota
December 29	Kentucky
1937	
February 25	Wyoming
February 26	Arkansas
March 16	Montana
"	North Dakota
"	Washington
March 24	Nevada
March 26	Kansas
March 29	Georgia
April 2	Alaska
April 30	Delaware
"	Nebraska
May 18	Hawaii
June 9	Florida
June 17	Missouri
June 30	Illinois

[40] Titles III and IX of the Social Security Act (Public No. 271, 74th Congress) contain the unemployment compensation provisions. For a summary of these provisions see Burns, E. M., *Toward Social Security* (New York, 1936), pp. 250-254.

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A variety of reasons may be advanced to explain the sequence of these enactments. The main causes were probably inherent in the facts that (1) the federal unemployment compensation tax became law after the state legislatures had adjourned in 1935, and that (2) although most legislatures were not to reconvene in regular session until 1937, the tax was made payable for the year 1936. This meant that states, which failed to enact the requisite legislation and collect the state unemployment compensation tax before the end of 1936, were faced with the prospect of losing revenue to the federal government—namely, the amount represented by the creditable portion of the federal tax. During the regular sessions of 1935, most states had failed to act, for one reason, because of ignorance of what the final terms of the federal unemployment compensation provisions would be.[41] Even so, two of the states which enacted measures before August 14, 1935—in anticipation of the Social Security Act—had to enact new laws later on.[42] For the remainder of the calendar year after the passage of the federal act, only two more states produced laws. One of these, the Oregon act, emerged in a somewhat confused condition [43] and, therefore, it appeared that the states would need considerable guidance in framing unemployment compensation measures. Unfortunately, in the latter part of 1935 the Social Security Board, created to administer the federal

[41] North Carolina passed an act in the spring of 1935 which empowered the governor and Council of State to create an unemployment compensation system "in the event of the enactment by the United States Congress of Unemployment Insurance Laws." House Bill No. 1507, 1935. When the Social Security Board disapproved of this enabling measure, it was replaced by an act under which the legislature, not the executive, framed the system.

[42] These states were Utah and Washington. The original Utah law, which was to become effective on proclamation by the governor, never went into effect because it failed to meet the conditions stipulated in the Social Security Act. The Washington law, which had been linked with the social security bill pending before Congress at the time of enactment of the state act in March 1935, was declared unconstitutional on that account by the state supreme court. Johnson *v.* State of Washington, Supreme Court, Washington, 60 P. (2d) 681.

[43] Drafted hastily, the law provided for several types of insurance fund but failed to make clear how they were to be distinguished from one another. *Cf.* ch. 70, Laws of 1935 (special session).

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act, could not function fully, owing to the failure of Congress to appropriate the necessary funds.

By January 1936, the Social Security Board was able to establish a Bureau of Unemployment Compensation which forthwith undertook to disseminate information to the states. The Bureau drew up and circulated draft or "model" bills [44] for state unemployment compensation legislation, any one of which might be approved by the Social Security Board for purposes of crediting state taxes against the federal unemployment compensation tax. The draft bills exerted a powerful influence,[45] for in addition to supplying the requisite information they emanated from the agency which, under the Social Security Act, was empowered to make grants to cover the cost of administration of the state systems [46] and to approve state laws in order that employers might claim credit. But despite the increasing activity of the new federal agency, the majority of the states, with their legislatures adjourned for the remainder of the biennium, proceeded slowly. Prior to November 1936 only seven more had enacted statutes.[47]

[44] *Social Security Board, Draft Bills for State Unemployment Compensation of Pooled Funds and Employer Reserve Account Types*, January 1936. In February 1935, the Committee on Economic Security had drawn up similar drafts. *Cf. Economic Security Act; Hearings before the Committee on Finance*, United States Senate, 74th Congress, 1st session on S. 1130, January 22 to February 20, 1935, pp. 591-640. The first Washington act of March 1935 was very much the same as the Committee's pooled fund draft bill.

[45] Mr. Merrill Murray of the Bureau of Unemployment Compensation stated in June 1935 that the bills had been considered by eighteen states. *Minutes of Hearings Held before the Committee on Labor and Industries on the "Second and Final Report of the Special Commission Appointed to Make an Investigation of Unemployment Insurance, Reserves and Benefits"* (Boston, 1935), p. 46.

[46] By title III of the Social Security Act, the Social Security Board was empowered to make grants for administration to the states from sums appropriated by Congress. (It was presumed that the sum total of the grants was to correspond to the uncreditable ten per cent of the federal payroll tax.) See Douglas, *op. cit.*, pp. 146-148.

[47] It is of interest to note that the laws of Mississippi, South Carolina, Louisiana and Texas, in particular, were modeled very closely on the draft bills. In view of constitutional difficulties, the Louisiana law was to take effect only upon ratification of a constitutional amendment the following November, while in Texas provision was made for continuing the system on a voluntary basis should the compulsory tax be voided.

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In the remaining thirty-two states the approach of 1937, marking the last opportunity to retain the creditable portion of the 1936 federal payroll tax, was viewed at first with seeming helplessness. Lack of knowledge of the technical details of the legislation, adjournment of the legislature (special sessions had never been convened in some states) and perhaps unwillingness to adopt unemployment compensation [48]—all contributed to this situation. More important than these difficulties was a reluctance to act until two issues had been settled: first, the presidential election of 1936; second, the constitutionality of the unemployment compensation cases already before the United States Supreme Court.

The overwhelming victory of the "New Deal" in November 1936 was regarded as an endorsement of its legislative enterprises. Yet the subsequent sudden disintegration in many states of the opposition to convening special sessions, in order to adopt unemployment compensation, was nevertheless unexpected. Though conceding the inevitability of the legislation, a number of state officials made efforts in the fall to learn from Washington whether Congress would return the creditable part of the 1936 federal tax if their states first established unemployment compensation systems in the early months of 1937. The federal government would not then commit itself to such a procedure.[49] When the Supreme Court upheld the New York Unemployment Insurance Law,[50] there was a general throwing-up of hands, for it had no doubt been hoped that the invalidation of this act would make special sessions unnecessary. Republican majorities, even in "lame-duck" legislatures, and defeated Republican executives [51] now agreed to coöperate in

[48] Earlier in the year, in 6 states — Colorado, Maryland, Minnesota, Ohio, Pennsylvania and Virginia—bills had been passed by one house of the legislature.

[49] *Cf.* the stories of the 28th Annual Governors' Conference at St. Louis in the St. Louis *Post-Dispatch*, November 16, 1936, and *The New York Times*, November 18, 1936.

[50] 57 Supreme Court 122. The vote of the Court was four-to-four, but since the absent vote was that of the liberal member, Mr. Justice Stone, it appeared foregone that in the next case the Court would not invalidate the legislation.

[51] The action of retiring Governor Frank D. Fitzgerald of Michigan, a Re-

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the swift passage of the measures necessary to preserve the tax credit. In consequence of these climactic developments, the month of December 1936 saw nineteen legislatures convened and eighteen laws enacted. Because of the limited time for action, the legislatures forwarded measures to the governors without delay. No more than three days were required for the process of the lawmaking in several states. In Connecticut, Maryland, Michigan, New Jersey and North Carolina, there had been preliminary study of the legislation by official bodies but, except perhaps for Connecticut, the new laws reflected the provisions of the draft bills of the Social Security Board.

Despite the rush to legislate at the close of 1936, the next year began with thirteen states still outside the fold and apparently resigned to losing the credit on the 1936 federal tax. But by July 1937 all these states had also enacted statutes. Naturally the measures were under consideration for a longer period than those of the previous December, and in some states, such as Illinois and Missouri, there was a resumption of lobbying against certain provisions.[52] But the struggle really was restricted to the provisions of the Social Security Board draft bills, to which all the laws could be traced in whole, or in large part. Finally, in August 1937, Congress capped the legislation with an appropriations act crediting these laggard states with ninety per cent of the amounts that their employers had paid in under the federal act during the previous year.

In May 1937, the Supreme Court settled the question of the constitutionality of both the state and federal unemployment compensation provisions in two decisions, each by a five-to-four vote.[53]

publican, in calling a special session at the request of Governor-Elect Frank Murphy was a case in point. *Cf.* Detroit *Free-Press*, December 20, 1936.

[52] Employer groups which had been apathetic or opposed to the Wisconsin plan in the early thirties now desired it strongly. In Missouri, Professor Douglas points out, "the Director of the Wisconsin Unemployment Compensation Bureau addressed the joint committee of the legislature under the auspices of the Associated Industries in behalf of the bill sponsored by that group." *Social Security in the United States* (2d ed. New York, 1939), p. 400.

[53] In *Carmichael v. Southern Coal and Coke Co.* (57 U. S. 868), the Court upheld the Alabama unemployment compensation act, while in *Steward Ma-*

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The manner and rate of passage of the unemployment compensation acts in the years 1935 to 1937 indicate why their advent may be viewed as a process of emergence rather than development, a process which was set into motion by the federal government and concurred in by the states with feelings varying from enthusiasm to reluctance. These years afforded the great opportunity for national legislation on unemployment compensation, and the federal government was clearly determined not to let the opportunity pass. Action, therefore, was the keynote of the three-year period just as inaction had characterized the earlier years of the movement. Viewed against this background, the universal acceptance of unemployment compensation was a political miracle. Yet it was possible to ask: What had been wrought? What was in the laws that had been accepted by the states, some of which had scarcely ever entertained the idea of unemployment compensation?

chine Co. v. Davis (57 U. S. 883), the unemployment compensation provisions of the Social Security Act were upheld.

The historical background of these decisions was briefly as follows: After the enactment of the federal unemployment compensation payroll tax, both the state legislators and employers made moves that reflected the compulsive nature of the federal act. The legislators, in enacting state payroll taxes, added so-called "sudden death" clauses by which the state tax was to be automatically repealed or stopped in the event of the invalidation of the federal tax (many of the state enactments contained this provision). On the employers' side, the logical avenue of opposition to unemployment compensation was now the courts where the state acts might be attacked individually, or severally, if the federal tax were challenged. As a result, several hundred concerns became involved in actions against unemployment compensation before the Supreme Court settled the issue. State high courts upheld the acts in Alabama, California, Massachusetts and New York, but the Washington act was voided. A federal lower court in Massachusetts found the Alabama act unconstitutional. The federal tax was held void by one United States Circuit Court of Appeals and valid by another.

Coincidentally, these varying decisions contributed to the tense atmosphere surrounding the administration's plan to enlarge the Supreme Court because of its alleged obstructive proclivities. The force of this effort on the Court mind is, of course, indeterminable, but the fact remains that unemployment compensation has emerged with far less legal friction than did workmen's compensation in the two previous decades. It is noteworthy that of all the enactments, only those of Kansas and Louisiana necessitated state constitutional amendment, and in both instances no adverse court decisions were involved.

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During the period of passage the specific content of the laws seemed of less importance for the reason that prolonged arguments over proposed provisions had apparently prevented the states from acting in earlier years on their own account. Summing up some of the disputes that had retarded the acceptance of unemployment compensation, the Committee on Economic Security stated:

> In this country there has been considerable interest in unemployment insurance ever since the enactment of the pioneer British law of 1911, especially since the depression of 1920-21. In the years that have intervened, considerable controversy has developed over the type of unemployment compensation legislation that should be enacted; particularly, over such questions as unemployment insurance versus unemployment reserves, employee contributions, governmental contributions, extended benefits, and the type of unemployment to be benefited. It is our conviction that these controversies have developed largely because there has been no action, and, therefore, no practical experience on this subject. Further investigations and other devices for delay will merely enhance the negative character of the debate. What is needed at this stage is demonstration, not further debate and research.[54]

In other words, the emergence of the unemployment compensation acts was to come first; their development was to follow. But since the subsequent development of unemployment compensation was necessarily affected by its starting point, the nature, origin and range of the initial provisions must also be examined, independently of the broad historic exigencies that gave rise to them.*

[54] *Report to the President of the Committee on Economic Security* (Washington, 1935), p. 15.

* To be concluded in the next number of this review.—ED.

HARRY MALISOFF

NEW YORK CITY

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REVIEWS

The Colonial Period of American History. By CHARLES M. ANDREWS. Four volumes. New Haven, Yale University Press; London, Oxford University Press, 1934-1938. — xiv, 551; 407; xiii, 354; xi, 477 pp. $4.00 each.

Professor Andrews, the acknowledged dean of historians of the American colonial period, has summed up the labor of long years in this remarkable set of volumes, which will stand as the definitive treatment of the history of his chosen field. The first three volumes deal with the English settlements in the new world. After four preliminary chapters on "The Age of Discovery", "England's Commercial Activities" (in the second half of the sixteenth century), "Factors Influencing Colonization", and "The Preliminaries of Settlement" (Raleigh, Gilbert, Popham, Gorges), Professor Andrews devotes the first volume to the settlement and history of the colonies of Virginia, Bermuda, Plymouth and Massachusetts Bay—a work which was awarded the Pulitzer Prize in American history in 1935. The second volume deals with Rhode Island, Connecticut, New Haven, Barbados and Maryland; and the third with Jamaica, New York, the Jerseys, the Carolinas and Pennsylvania. The amazing wealth of material presented in the 1223 pages of these three volumes and in their many hundreds of footnotes will continue to be an inexhaustible mine of information for the students of our colonial period. But it is the fourth volume that is the gem of the series. In this volume, entitled *England's Commercial and Colonial Policy,* Professor Andrews analyzes, with a keenness of discrimination and a clarity of presentation that are beyond praise, the whole theory and practice of England's relations with the American colonies in the seventeenth and eighteenth centuries. He traces the commercial policy of the mother country in great detail, considers the methods of its enforcement in the colonies, describes fully the work of the Lords of Trade and their successors the Board of Trade, and closes with two magnificent chapters on "Mercantilism and the Colonies: Historically Considered" and "England's Attempt to Enforce Her Colonial Policy" (especially in the eighteenth century).

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Two features of Professor Andrews' work stand out with particular emphasis. In the first place, he does not, like most of the historians of our colonial period, limit his definition of the American colonies to those establishments on the mainland which were destined to grow into the thirteen original states of the American Union. As the enumeration of the settlements in the preceding paragraph shows, he includes Bermuda, Jamaica, and the other island colonies: in short, the whole group of English settlements from New England to Barbados. And the justification for this broadening of the scope of the author's inquiry "to include all England's colonial possessions in the West that were founded in the seventeenth century" is found in the second outstanding characteristic of the volumes: namely, the constant and consistent treatment of the colonies not as potential seceders from England, but as part and parcel of England's "absent-minded" expansion from the Tudor monarchy to the Hanoverian empire. In other words, it is *English* colonies in America that Professor Andrews is writing about, with all the problems that their political, economic and cultural development raised for the directors and guardians of England's commercial interests and administrative responsibilities at Whitehall and Westminster. England, not America, is the active policy-shaping partner in the relations between the colonies and the mother country. And that her policies resulted in the separation of the mainland colonies from the empire, while the islands remained under the British flag, is a fact which, in spite of its enormous importance for American history, must not be read back as an historical factor hastening or even influencing the actual commercial and colonial policy of the mother land. That would be to put the cart before the horse.

Professor Andrews is not the first American historian to break away from the "filio-pietistic" school of Bancroft, which, with scant sympathy for British imperial problems, centered their attention upon the grievances of the colonies, and treated our colonial history as a kind of curtain-raiser for the drama of our national history or a tightly-wound cocoon from which the chrysalis of the American Republic was to emerge. Professor Osgood in his seven volumes on the *American Colonies in the Seventeenth and Eighteenth Centuries* gave ample attention to the legal, administrative and economic institutions of the mother country which conditioned the development of the colonies. Professor Beer wrote extensively on the history and theory of the Acts of Trade and the Navigation Acts of the "Old Colonial System". Professor McLaughlin in his *Consti-*

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tutional History of the United States recognized in his early chapters the serious problem of "imperial organization" which confronted the English statesmen. But none of these writers so successfully shunned the temptation to "squint" at the result of England's policies in the secession of the mainland colonies (a result not dreamed of until the later years of the eighteenth century) as does Professor Andrews. Whether those policies were sound or unsound from the point of view of present-day standards or of the development of revolutionary doctrines on this side of the Atlantic is not his problem; he is concerned only to explain the essential features of those policies "from the beginning of England's experience with colonies down to the eve of the American Revolution."

In accordance with this purely descriptive and expository purpose Professor Andrews introduces a minimum of controversial material into his volumes. Only now and then does he pause in a footnote to question a judgment of Professor McIlwaine (vol. IV, p. 369) or a statement of Professor Osgood (vol. IV, p. 410). But at the end of his work, in a long note, he enters a vigorous protest against the writers of the "economic determinist school" like Professor Hacker, who would attribute the American Revolution wholly to the "attempt of the American merchant and planter-capitalism to obtain release from the fetters of the English Mercantile System." Mercantilism, Professor Andrews contends, was never a well-defined "system", and the British merchants, though generally favored by Parliament, were never the dictators of English colonial policy. Their interests clashed at times with such other main features of that policy as the political subordination of the colonies, the demands of the exchequer, the protection of the rising industries of England, and the general administrative problem of maintaining an empire in which all the parts should function for the commercial advantage and the political unity of the whole. For example, he can find no trace of mercantile interest in many of the most provocative acts leading up to the Revolution, such as the Stamp Act of 1765, the Declaratory Act of the next year, the Quebec Act of 1774 and the Carleton instructions of 1775. Even the Sugar Act and the Townshend Acts "were designed much more in the interests of the revenue which the exchequer greatly needed than of the business prosperity of the capitalists" (vol. IV, p. 426). On balance, he believes that the Acts of Trade, laxly enforced as they were, were of more benefit than harm to the colonies, and quotes with approval Dr. Lipson's judgment that "though individuals chafed against the restraints laid upon

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them, the colonies would not have cut themselves adrift from the mother country on the ground of economic grievances alone; and this conclusion is fortified by the absence, in the Declaration of Independence, of all reference to the Acts of Trade beyond an allusion of doubtful significance" ("For cutting off our trade from all parts of the world"). Only this brief—and inaccurate—statement in a list of twenty-seven grievances against King George!

The incredible stupidity and obstinacy of the King's henchmen who directed England's policy from Bute to North drove the American colonies of the mainland step by step into remonstrance, resistance and armed revolution. Whether or not under wiser leaders at Whitehall and Westminster the empire might have been preserved, as men like Benjamin Franklin hoped to the last that it would be, is a question no one can answer. Perhaps the colonies had grown so self-reliant and self-sufficient that their separation from the mother country was as inevitable as Thomas Paine declared that it was. At any rate Professor Andrews makes a good case for the argument that separation would not have taken place on the grounds of economic grievances alone. It may seem ungracious to pick a flaw in so notable a work as Professor Andrews', but one asks whether the author should not have made acknowledgment to previous writers in the field, like Osgood, Beer, McLaughlin and J. T. Adams, to whom he at times apparently has owed suggestions or material.

DAVID S. MUZZEY

The Rise of European Civilization. By CHARLES SEIGNOBOS. Translated by Catherine Alison Phillips. New York, Alfred A. Knopf, 1938.—xii, 436, ix pp. $4.50.

In 420 pages Professor Seignobos sketches the rise of European civilization from the cave men to the dictators. The rapidity of the pace at which the book moves may perhaps be indicated by a brief time table. At page 61, the discussion of the ancient world and the growth of Christianity is concluded. The Middle Ages are finished by page 211. We reach the French Revolution at page 307 and the Great War at page 399. In a concluding chapter, almost as if to demonstrate further his virtuosity in compression, the author sums up the whole story in fourteen pages.

True to his promise in the introduction, Professor Seignobos omits "all that ordinarily constitutes the attraction of history: the dramatic element of personal adventure and the picturesque element of detailed

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description." But, none the less, the work is definitely factual rather than interpretative. It is a highly condensed account of events and developments, not an attempt to trace causes, analyze forces, or present theories as to the reasons for historical change and evolution. Though the author focuses most of his attention on the political phases of history, he makes his narrative broad as well as sweeping by including some material on social, economic, intellectual and religious aspects also. By trying to confine himself to "such results of historical work as are established by the consensus of the specialists" he has avoided many controversial questions, though the specialist would still take issue with him at many points. If the author's restraint and his suppression of all details make the book seem general, bare and stark, they also make it more valuable for the intelligent lay reader who is seeking information not entertainment or intellectual stimulation.

By its title this work invites comparison with *The Rise of American Civilization* written a dozen years ago by Charles and Mary Beard. Both are by distinguished historians. Both are aimed at the educated public rather than the scholar. Both present continuous narratives covering broad fields. In fact, however, no such comparison is proper, for though the work of the Beards deals with a period of less than four centuries, it is more than four times as long as that of Seignobos, which covers more than twenty centuries. Further, the Beard book, rich in detail, stresses rather than minimizes the interpretation of events. Imagine the Beards' work stripped of all but its factual core and cut to say one tenth its actual length and it would then be comparable to the volume under consideration.

The translator of Professor Seignobos' book has done her job competently. Although there are occasional sentences awkward in form or obscure in meaning, the style is, for the most part, clear, simple and straightforward. Too many phrases and words are, however, left in French. There was no need to give the French form for the Society of Jesus (p. 226) or for the "sea beggars" (p. 232). Outright mistranslations as "trade union" for *compagnonnage* (p. 232) seem to be rare, though one might doubt the idiomatic quality of "chain labor" (p. 386) to describe work on an assembly line.

Similarly there appear to be few factual mistakes in the text itself. Craft and merchant guilds are not adequately distinguished (p. 155). The depression of 1929 in the United States did not begin "with a general failure of the banks, which suspended payment" (p. 411). Birth rates expressed in per cent (p. 416) must have been per thou-

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sand. The Donation of Constantine was not "fabricated in the thirteenth century" (p. 170). The statement (p. 295) that the invention of the Watt steam engine had "no connection with science" is open to question, as is Professor Seignobos' belief (pp. 295, 334-335) that it was the inventions in eighteenth-century England which "brought about" the industrial revolution. More important are the author's failure to make adequate use of Dopsch and Pirenne for the medieval period and his occasional tendency to follow Sombart too far. Despite such slight reservations as these, the book is, and will probably long remain, useful as a brief but sound sketch of a gigantic subject.

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The Structure of Social Action. By TALCOTT PARSONS. New York and London, McGraw-Hill Book Company, Inc., 1937.—xii, 817 pp. $6.00.

Bio-Politics. By MORLEY ROBERTS. London, J. M. Dent & Sons, Ltd., 1938.—240 pp. 15s.

Professor Talcott Parsons' book is a solid volume which should delight the heart of any student seriously interested in the development of political science. The bulk of the book is occupied with an objective and detailed examination of the social theories of Alfred Marshall, Vilfredo Pareto, Émile Durkheim and Max Weber from the point of view of the problem of the relations of ends and means. The utilitarianism of the Mills and the positivism of Comte were not considered by their exponents to be at all identical theories. They share, however, in Professor Parsons' view, a defect in common, a tendency—complete in the behaviorists—to neglect consideration of ends, which are treated at random, in the interest of a study of means. The idealist school tends to the opposite defect.

The object of Professor Parsons' work is, by showing that competent and representative thinkers approaching the problem from opposite positions have reached conclusions on human conduct that cumulatively point in the same direction, i.e., a voluntaristic theory of action, to demonstrate that this last is "a permanently valid precipitate", "a conceptual scheme usable in empirical research." Professor Parsons argues that this scheme is empirically demonstrated to be a right explanation of the facts because these eminent thinkers are driven by the facts, even kicking against the pricks, to discover it.

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I am not confident that Professor Parsons does not rest too weighty a structure on this coincidence of views, while fully sympathizing with his determination to vindicate an objective science. I feel that a longer time-span and a far wider range would alone provide evidence satisfactory by accumulation. This method which reaches this conclusion Professor Parsons calls "analytical realism", i. e., the validity of general concepts is asserted, but "these concepts correspond, not to concrete phenomena, but to elements in them which are analytically separable from other elements."

This doctrine of a framework of action as alone making sense enables Professor Parsons to label Professor Robbins as a utilitarian because he disregards ultimate values. (One notes in passing Professor Parsons' distinctive use of terms.) It has an interesting and destructive bearing upon Marxist materialism. His methodology enables Professor Parsons to take the emphatically right step of insisting that the study of politics (to which is assigned scientific status) and of sociology must start from the "unit-act", taken *provisionally* in abstraction.

Politics he distinguishes as "the problem of power relations and order in so far as it may be regarded as a solution of the struggle for power." It is interesting to note how this functional concept—as distinct from the old "study of the State" definition—has come widely to be accepted in the last ten years. Sociology Professor Parsons (*in collaboration with Professor Friedrich*) distinguishes not as a fact-gathering study but as synthetic and teleological — "the science which attempts to develop an analytical theory of social action systems in so far as these systems can be understood in terms of the property of common-value integration." The "common-values" appear to emerge on a higher social level than "power struggle". This suggestion may be patient of totalitarian implications—"common-value" on a higher emergent level — for which it will be interesting to watch. We learn that, "as Hobbes has shewn, control over these interests [of wealth and power] is a vital point in the stability of any social system." It is to be regretted that Professor Parsons does not mention the relevant work of the Chicago School which uses concepts, in several cases, similar to his own if with sharply different conclusions. Nor can I regard Bertrand Russell as too insignificant to require notice.

Mr. Morley Roberts' *Bio-Politics* is a much simpler construction, although some will acclaim it as a work of genius. For Mr. Roberts, who is a neo-Darwinian of the social organismic school, there

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is no doubt about the importance of "common-value integration" or about its explanation. In the style of Worms and Bluntschli, Rivers and Dendy, he is sure that the body social is as much an organism as any animal, and that divergencies about common values, otherwise called individualism, is a disease such as any medical man might recognize. Mr. Roberts is, moreover, confident that a universal law of variation is discoverable in social organisms which offers adequate explanation "without appeal to teleology, preformation or purpose." However, "this strict adherence to the factors of an organic materialism need deter none from retaining confidence in any more general scheme of the universe to which they are accustomed."

Medical analogies are pursued with great precision and learning; Sir Arthur Keith, with his theory that the animal body is a slave state, is called in as confirmation; and the conclusion is reached that "a healthy, reasonably happy people will care little for politics"; will not suffer from this species of inflammation; but will share a common-value system reached by compromise between oligarchy and a "natural social organic instinct." "Government", as a deliberate institutional act, is "largely illusion". "Idealistic internationalism" is "a destructive tribal doctrine." In brief, "the only State organization likely to last for a long historical period with relative satisfaction to all its units must be a caste system." I should like Professor Talcott Parsons' comments on Mr. Roberts. Is this also "permanently valid precipitate"?

GEORGE CATLIN

LONDON

An Economic Program for American Democracy. By Seven Harvard and Tufts Economists. New York, The Vanguard Press, 1938.—91 pp. $1.00.

Seven of the younger men teaching economics at Harvard and Tufts have here elaborated a program to "save our free democratic institutions".

They take as their starting point "the conviction that the underlying objectives and methods of the New Deal were and remain sound", and that the New Deal has achieved "a striking degree of success." No evidence is cited to uphold these opinions, and obvious foreign yardsticks for comparison are ignored. Proof by assertion even leads them to meet the "vicious and dishonest attack by the most reactionary elements of the community" against the

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National Labor Relations Act and the National Labor Relations Board, with the bald statement that *any* modification would be a serious setback for the orderly processes of democratic government. The tone of the entire tract is in similar vein.

The "very backbone" of the program is the notion that government spending must restore prosperity levels — and maintain them permanently. The authors postulate that the old mechanism of adjustment will not function properly in the future. "Deep-seated historical causes" are said to have limited the potentialities of private investment. Two of these causes are cited: the closing of the frontier and the decline of the rate of population growth. The first, however, took place a generation and a half ago, if we can take Turner's word for it. And the second does not mean that the population has already ceased to grow. The reviewer agrees with the view that the old mechanism of adjustment is in bad shape, and an analysis of this aspect of the problem might have led the authors to some revision of the praise accorded to the objectives as well as the methods of the New Deal.

A depression is essentially an interruption of exchange relations. Some prices in some sections of the economic system get out of line with other prices in other sections. The result is stagnation, idle capacity or idle money on the capitalist side, and idle men or unemployment on the labor side. The fundamental remedy—if a free enterprise system is to be preserved—is to restore exchange relations to a point at which full utilization of our plant and human capacity again becomes possible. This calls for free adjustment of prices, interest rates and wage rates.

Government can play a constructive rôle in the process. It can expedite matters by wise and balanced pressures whenever certain prices, wages or interest rates retard adjustment, and it can certainly soften the blows of the adjustment period (unemployment, bankruptcy, etc.) by a judicious expansion of public expenditures while the private curtailment is in process.

Current public spending in the United States, however, is a radically different matter. Unlike Great Britain and Sweden — and fascist Germany—where prices and wages have been carefully controlled, we have a political picture in which the government has actually gone out of its way to increase prices and wages, while a vigorous public spending drowns out the immediate economic consequences of policies which would otherwise freeze or even expand the volume of unemployment. Under the circumstances the recovery

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that is achieved will clearly last only as long as the public spending—and meanwhile all pressure toward the ironing out of basic price and wage maladjustments has ceased. The historically unparalleled increase in wage rates in key industries during the C.I.O. drive just prior to the 1937 recession and during a period of continued mass unemployment was a perfect example of a policy almost designed to perpetuate unemployment.

Under such circumstances public expenditures may well turn out to be "permanent"—until the inevitable inflation forces a reconsideration of the democratic procedures which allowed such fiscal laxity to develop. Meanwhile all incentives for the resumption of private investment become inoperative — and this will not change until we restore conditions in which a reasonable opportunity for long-run earnings again emerges.

The authors of this program were not free to follow this analysis to its bitter end. They started with a declaration of their faith in the soundness of both the *end* and the *means* of the New Deal. Even within that narrow framework they might have served their political cause more effectively by insisting that many of the virtues which they assign to public *investment* have almost no relevance in connection with current public *expenditures*.

HARRY D. GIDEONSE

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The Brandeis Way: A Case Study in the Workings of Democracy. By ALPHEUS THOMAS MASON. Princeton, Princeton University Press, 1938.—xi, 336 pp. $3.00.

The widespread interest aroused by the enactment on the part of the state of New York on April 6, 1938, of a law permitting mutual savings banks to sell various types of life insurance makes this volume by Professor Mason a very timely one. The study is biographical in nature in that the background and results of the Massachusetts statute of thirty years ago, which served as the prototype for the recent New York enactment, are used to portray "in action the social-political philosophy of its founder, Louis D. Brandeis" (p. 1), as well as his genius as a "social inventor". The fact that such is the case affords justification for the study. The economics of savings bank life insurance have been covered adequately in other treatises to which Professor Mason makes reference.

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Democracy, according to Professor Mason, requires "not only appropriate institutions, but also appropriate temper, a peculiar attitude of mind, a willingness to test conclusions. . . . Democracy is truly pragmatic both in ethics and politics, in questions of right and wrong, in matters concerning what is good policy and what is bad" (p. 8). The genius of American democracy, as Mr. Brandeis understood it, consists of a system of private property, widely distributed (p. 16). A propertyless and wageless class makes an insecure foundation for democracy (p. 11).

To achieve the necessary foundations for the proper functioning of democratic institutions, Mr. Brandeis looked "to the state for protection against industrial and financial tyranny" (p. 33). Citizens must be protected by governments against fraud and manipulation and against exploitation by entrenched vested interests, whether these take the form of industrial combinations or of life insurance companies. In the implementing of his philosophy, Mr. Brandeis refused to adhere to any static political doctrine, realizing that progress requires perspective, active intellectuality, perseverance and effort (p. 39). The individual must remain the focal point of any and every change proposed. His self-reliance and independence of spirit must be given every encouragement. Self-help and coöperative effort must be the watchwords rather than a state paternalism that enslaves the human spirit in bureaucratic bondage.

In the advocacy of the savings bank life insurance law of Massachusetts, Mr. Brandeis put his own political and economic philosophy into practice. The law had its roots in the insurance scandals of the first years of the century; in the report of the chief counsel of the Armstrong Committee, Mr. Charles Evans Hughes; and in the work which Mr. Brandeis did as counsel for the New England Policy Holders Protective Committee of the Equitable Life Assurance Society.

In Mr. Brandeis' opinion the greatest of all evils was the high cost of industrial insurance (p. 110). Insurance was needed by the person of small means more than by any other group. Yet he who needed it most paid highest for the small protection he sought. Unless this situation were remedied, Mr. Brandeis foresaw that an insistent demand would arise for state insurance (p. 116). He opposed state insurance as he opposed all forms of paternalism, and recommended instead that mutual savings banks be permitted to sell various types of life insurance.

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As Mr. Brandeis pointed out, there is nothing mysterious or esoteric about life insurance. It rests upon very simple arithmetic principles plus investment ability (p. 109). The calculation of the net premium and mortality reserve was being performed by many state insurance departments incident to their supervisory activities. As regards investment ability, the Massachusetts savings banks through the century of their existence had had an enviable record. They could easily assume this new function and could sell insurance at a cost below that charged on industrial insurance policies.

Professor Mason describes in detail the struggles of Mr. Brandeis to secure the enactment of the law. The support of influential persons had to be enlisted and inertia and opposition overcome. Fortunately the coöperation of Mr. Pierre Jay, then Bank Commissioner for Massachusetts, was secured (p. 153), as was that of President Eliot of Harvard and ex-Governor W. L. Douglas and other influential persons.

Enacted on June 26, 1907, the provisions of the law were so carefully drafted that it has stood every test. By reason of lower operating costs due principally to the absence of agents' commissions, to a more favorable mortality experience and a higher rate of return on invested assets, costs are less than the average cost of ordinary insurance sold by the old line companies and considerably less than the cost of weekly premium industrial insurance. In addition the contract provisions of the policies are more liberal.

Though slow in getting under way, savings bank life insurance in recent years, particularly since 1929, has shown a significant growth. The educational campaign is beginning to bear fruit. Not only is such insurance promoted by various labor organizations and by credit unions but it has received the support of the Associated Industries of Massachusetts (p. 254). At the present time there is more than $151,000,000 savings bank life insurance in force, written by the 24 mutual savings banks having such departments or their agents.

Professor Mason has provided a very readable account of the philosophy of Mr. Brandeis as exemplified in his struggle for this insurance enactment. Though written from the point of view largely of a political philosopher, economists will find little to criticize in the author's conclusions. The review would be incomplete without a word of compliment to the Princeton University Press on the typography.

BENJAMIN HAGGOTT BECKHART

COLUMBIA UNIVERSITY

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The World Crisis. By Professors of the Graduate Institute of International Studies. London, New York and Toronto, Longmans, Green and Co., 1938.—xii, 358 pp. $4.00.

The Graduate Institute of International Studies has long held a distinctive place among the institutes of higher learning devoted to the scientific study of the problems of international relations. Under the guidance of Paul Mantoux, for seven years a director of the Political Section of the League of Nations, and of William E. Rappard, director at one time of the Mandates Section of the League and Professor and Rector of the University of Geneva, the Graduate Institute has drawn to itself a distinguished faculty which has, in particular years, included some of the outstanding professors of international law and international relations in our American universities. The Institute has recently celebrated the tenth year of its activities and the present volume, consisting of papers by the thirteen members of the Institute's faculty, is published in commemoration of the event.

The essays divide themselves into three distinct sections, dealing respectively with political and historical problems, legal problems, and economic problems. Professor Mantoux writes upon "A Lost Opportunity of the League" and presents a minute examination of the Vilna dispute between Poland and Lithuania and shows that a firm stand by the League would have prevented the recourse to force by Poland and would have created a precedent of great value for the future. Professor Rappard enlarges upon the development by the League of new institutions and new habits which make it worthy of survival in spite of the defects of the Covenant and the recent open violations of its authority. Professor Ferrero expounds a unique theory of what might be called "limited war", and he argues the necessity of preventing the new type of war fought in 1914-1918 if civilization is to be saved. Professor Maurice Bourquin writes on the "Crisis of Democracy", and Professor P. B. Potter, formerly of the University of Wisconsin, gives a critical and optimistic analysis of international organization and the lines of development in the future.

The papers dealing with legal problems, by Professors Kelsen, Wehberg, Guggenheim and Kaeckenbeeck, survey successively the separation of the Covenant from the peace treaties, the position of civil war in international law, the reform of the League, and the activities of the Upper Silesian Arbitration Tribunal.

The section on economic problems contains a study of "The Disintegration of the International Division of Labor", by Professor von Mises, who argues his well-known case for free trade as a prin-

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ciple of peace; a study by Professor Röpke of "International Economics in a Changing World"; a singularly good examination of "Peaceful Change and Raw Materials" by Professor Whitton of Princeton University; and an analysis of the crisis in monetary internationalism by Professor Heilperin.

The recent setback which the conception of an ordered world has received from the substitution of tête-à-tête agreements between heads of states, in place of the method of international conference represented by the League, and the accompanying transfers of territory made under threat of armed force is all the greater reason for placing renewed emphasis upon the exposition of the theory of an organized community of nations contained in this volume. If reason is to recover its supremacy over the rule of force, it must do so by substantial proof to the world at large that the objectives of political security and economic sufficiency can be attained best by mutual coöperation rather than by individual nationalistic policies. That is what the volume before us seeks to present.

C. G. FENWICK

BRYN MAWR COLLEGE

Communism, Fascism, or Democracy? By EDUARD HEIMANN. New York, W. W. Norton & Company, Inc., 1938. — 288 pp. $2.50.

This is not just another book on the subject, but an effort to find a way out of the political impasse of our time. Must middle classes go fascist? The united front is admittedly a temporary alliance. The present work seeks for it a more permanent basis; a basis, moreover, "that wields sufficient spiritual force to dispense with the excessive use or threat of physical force" (p. 16) in the working out of a new social organization.

The author, once a colleague of Kautsky on the German Socialization Commission of 1919, and later a co-editor with Paul Tillich of the *Neue Blätter für den Sozialismus*, was formerly professor of economics at the University of Hamburg and is now at the New School. Though his style displays little of the brilliance of a Laski or the trenchancy of a John Strachey, the work reveals a subtlety of thought and a power of penetrating analysis which mark the author as a man worthy their steel. Indeed, he has crowded so many ideas into so little space that reading is at times difficult.

To lay bare the nature of democracy, Professor Heimann goes back to its origins. "The first vision of democracy that inspired

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the common man was of a world swarming with small independent producers" (p. 26). Secure in the possession of the land or other capital that enabled them to function productively, free to use their property at reasonable discretion, they were independent of state or party favor. In this sense, liberty, equality and property were not opposites but correlates. So too were freedom and organization; for such a society was integrated not by political restraints but by the market and the price system. Note that it was individual property which gave work to its owner that was here involved, as distinct from the private property which gave work to the propertyless. Where this exists under enlightened conditions, a wealth of coöperative activity may develop: "The rural cooperatives in Northern Europe are practically all-inclusive, but the labor unions in none of the leading countries [the author excepts France] have succeeded in organizing more than one-third of the workers" (p. 44).

This hope of economic democracy and equality brought, in its day, the overthrow of mercantilism. But the machine intervened. "Big business lost the support of legal monopolism only to gain a monopoly in high powered industrial techniques" (p. 28). Laissez faire, the wand to banish monopoly, became instead its sceptre. The new monopoly, however, socializes both productive process and producers until they "turn as progressive, revolutionary and collectivist as the machines. . . . It is capitalism itself which teaches the workers the value of socialism" (p. 72).

It is Heimann's vital contention that this new creed is not alien to the spirit of individual property. He cites Marx, who saw the positive significance of socialism in "restoring not private property, but individual property on the basis of coöperation and of the communal possession of the earth and the means of production" (quoted p. 90 *). Under the changed conditions of communal labor in machine production, collective property in collective work corresponds to individual property in individual work. Integration is no longer by the market, but by the market and the plan.

Since, however, the lower middle classes and particularly the peasantry have not disappeared, the author argues that "The simple logical solution of the problem is a diversified property system for a diversified structure of work" (p. 256). This the Soviets actually adopted when they proclaimed the state of the workers (collective property) and of the peasants (individual property).

* The passage appears in Marx, *Capital*, vol. I, p. 837 of the Kerr edition; vol. I, p. 691 of the *Volksausgabe* edited by Kautsky. Both show unimportant differences from the above, but the sense is the same.

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Compelling as the argument is, certain gaps appear. One looks in vain for an adequate examination of the Russian change of policy, to determine whether the reasons for it were intrinsic or extraneous. Again, to speak of the Russian peasants as reaching for individual property "according to the urge of peasants the whole world over" (p. 116) is to ignore not only the author's own qualification (pp. 50-52), but also the whole long controversy over the primitive village community. When Marx is cited on individual property, mention should also be made of the significant preface to the Russian translation of the *Manifesto,* in which he and Engels discuss Russian property relations of the past, the present and the future. In addition Professor Heimann fails to consider the white collar workers, whom the machine somehow fails to "socialize".

Despite these weaknesses the book is of great value. The historian will welcome the suggestion that liberalism was not merely a class but also a mass movement. Was it the fruit of the pre-technological industrial revolution, as socialism has been of its successor? Other readers will be interested rather in the platform; for this work is a political pamphlet, offering a common denominator for elements now far to the right and far to the left.

ISIDOR GINSBURG

COLLEGE OF THE CITY OF NEW YORK

Report of the Inquiry on Cooperative Enterprise in Europe 1937. Washington, U. S. Government Printing Office, 1937.—ix, 321 pp. $.65.

The coöperative movement is a child of adversity. It is not surprising, therefore, that President Roosevelt, facing a devastating economic crisis, should have appointed a commission to study that coöperative enterprise which has so markedly affected the economic, social and cultural life of the people of Europe. The commission, headed by Jacob Baker, spent two and a half months collecting data in ten democratic countries of Europe and submitted the report here under review.

Friendly, almost to the point of special pleading, is its tone. Part I is the pith of the report. Here the reader will find not only a factual and favorable account of current coöperative practices, but also answers to the most frequently posed arguments for the perpetuation of private capitalistic enterprise.

The average American, unaccustomed to observe spectacular progress of dissident political and economic movements here, will be

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startled to note the extent, as revealed by the tabular and pictorial statistics, of coöperative enterprise in Europe. Coöperative trade, although comprising chiefly the patronage of people in the low income groups, nevertheless accounts for nearly 30 per cent of the total national retail trade of Finland; 12 per cent of that of England; 10 per cent of that of Sweden; and 10-12 per cent of that of Switzerland. Coöperative membership figures are equally impressive. Approximately 45 per cent of the population of Great Britain, 62 per cent of that of Sweden, 65 per cent of that of Switzerland, and 68 per cent of that of Finland are directly affected by coöperative enterprise.

The report proves that the problems of labor personnel, finance, managerial competence and efficiency are better handled by the cooperative than by the capitalist technique. The coöperative employee enjoys better conditions and greater security, "due to more steady and determinable consumer demand," than his fellow worker in private industry. Moreover, collective bargaining, the closed shop to a lesser extent, and joint committees of arbitration make labor less a "problem" in coöperative than in private establishments.

Nor does coöperative enterprise lack efficiency and executive leadership. In fact the European coöperatives were pioneers in scientific management. Those responsible for directing the vast coöperative undertakings, which in England, for example, amount to more than a billion dollars a year, are mostly former workingmen who have risen from the ranks and who were trained in the schools operated by the movement.

Small sums from large numbers constitute the keystone of the coöperatives' financial arch. The income from the sale of membership shares, loans from members, the accumulation of rebates, and high depreciation reserves make available vast sums for expansion and investment in other fields.

Just as Part I of the report is obviously its core, so Part II is apparently its *raison d'être*. Here the members of the commission submit their individual observations on "The Meaning of Cooperative Enterprise to America". Despite the prefatory note to the contrary, there is a sharp cleavage of opinion on the likelihood of the growth of coöperatives here. The evidences of increasing interest in coöperation are to Mr. Baker merely straws in the wind of the future development of the movement. Miss Bates expects the coöperative movement to overcome difficulties and grow slowly, and Mr. Hood says that it "will develop in the United States to the extent that it can serve an economic need."

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It is difficult to agree with the views of Mr. Gregory and Mr. Stuart. Though differing in details, both are essentially advocates of laissez faire. Mr. Gregory looks upon coöperatives merely as competitive "yardsticks" of private enterprise. He advises them not to concern themselves with ushering in the coöperative commonwealth or curing the maladjustments in our economic structure. He envisages an "honest competition" between coöperatives and private enterprise as "being good for both, and for the consumer." Since the report furnishes ample proof that the coöperative technique is superior to the capitalistic method, how can both exist in a state of perpetual competition? Mr. Gregory's counsel to coöperatives runs directly counter to the very forces that gave birth to the movement. For coöperatives to follow his advice is to deny the reason for their existence.

Mr. Stuart's position is even less tenable. He denies the need of coöperative development on the ground that government regulation and unrestricted competition are the American way of protecting the consumer—the sole aim of consumers' coöperation. "In general, we are fairly well satisfied with the results up to date, but we are intent on going further in this same direction. But whenever essential Government regulation and free competition prove inadequate to protect the consumers' interests, consumer cooperation lies at hand as a ready and effective weapon" (p. 110). He does not seem to realize that a set of fortuitous economic circumstances, such as undeveloped natural resources, an extensive world market and the industrialization of the country, enabled capitalist enterprise to function, generally speaking, quite well here. The contraction of the foreign market has confronted American capitalism with the problem of tragic scarcity amid potential plenty. Hence, the recent interest in coöperation as a challenge to capitalistic methods. Mr. Stuart's view of the coöperative technique as a contingent and remote possibility only in the event of dissatisfaction with private enterprise is strange indeed in 1937.

The report is a notable contribution to the literature of political science. The commission is to be congratulated on its presentation, within the compass of one volume, of a veritable encyclopaedia on an economic and social movement of such magnitude. The government merits praise for giving official recognition not only to the accomplishments of coöperation abroad but also to its possibilities here.

EDWARD M. COHEN

BROOKLYN, N. Y.

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The Contract Clause of the Constitution. By BENJAMIN FLETCHER WRIGHT, JR. Cambridge, Harvard University Press, 1938.—xvii, 287 pp. $3.50.

Professor Wright's study of the rise, ascendancy and decline of the contract clause of the Constitution of the United States as a basis for restrictive judicial decisions is not presented as a treatise on the law of the contract clause. It is rather a portrayal of the rôle of the Supreme Court in American life, made with only incidental reference to the technical content of existing law based on the contract clause. Professor Wright has "sought to find out what the clause was intended to mean by its authors, by what process it was expanded, what kinds of statutes have been tested by those enlarged principles, and, so far as can be determined by a study of the decisions, what the effect upon state decisions has been" (p. xv).

From an examination of existing records the author finds that the framers of the Constitution evidently intended a much narrower interpretation of the contract clause than was ultimately given to it, and that the belief prevailed widely that it referred only to private contracts. A broader interpretation was implied in a number of judicial decisions before Chief Justice Marshall, in *Fletcher* v. *Peck*, held it to be a restriction upon the enactments of state legislatures. Marshall's four great contract opinions, written between 1810 and 1819, by which he wrote into the Constitution tenets of Hamiltonian economic theory, are appraised as among the most important opinions ever to come from the Supreme Court. Even though this court ultimately refused to follow him further, he succeeded in making the contract clause a basic restriction on state legislative power with respect to such matters as interference with grants of property, charters, and exemptions from taxation. The "first principles of natural justice and social policy" were read into a clause intended to have a limited, relatively specific meaning.

The period of doctrinal expansion of the contract clause continued after the death of Marshall, but it had ended at the time of the death of Chief Justice Taney in 1864, though the number of judicial decisions greatly increased after that date. Frequent resort to the clause to prevent the impairment of vested rights continued roughly through the period of service of Chief Justice Waite, which ended in 1888. Thereafter the due process clause of the Fourteenth Amendment came more and more to take its place as the guarantor of vested rights. The author predicts that the contract clause will not resume

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its former position of importance. True, it came to the fore for a time in recent years in connection with debtors' relief legislation. On this subject, however, the author questions whether the Minnesota mortgage decision "was after all anything more than a rather striking application of the familiar doctrine that state legislatures may enact laws reasonably modifying the remedy . . ." (p. 112).

The book is a valuable compilation of well-organized materials, interspersed with persuasive, cautious, and apparently sound interpretation. There is an element of perhaps inevitable monotony in procedure in terms of large numbers of cases, one after the other. Students and teachers will be particularly aware of this monotony in connection with the abbreviated treatments of landmark cases such as *Fletcher* v. *Peck* and The Dartmouth College case, of which fuller and more dramatic accounts are available elsewhere.

CARL BRENT SWISHER

THE JOHNS HOPKINS UNIVERSITY

Unions of Their Own Choosing. By ROBERT R. R. BROOKS. New Haven, Yale University Press; London, Oxford University Press, 1939.—296 pp. $3.00.

This is a very timely work. Dealing with one of the most controversial subjects of the day, it appears at a time when Congress is considering amendments to the basic labor law of the land. Few, if any, of the New Deal agencies have been under fire as persistently and from so many sources as the National Labor Relations Board. This little volume is apparently intended primarily to serve as an antidote to the anti-N.L.R.B. propaganda. The book is interestingly written and is a welcome addition to the popular literature on the much-maligned labor board. Its clear and lively style will appeal to the intelligent layman. It has very little, however, that is new for the informed student of industrial relations.

In a compact volume, replete with arguments, Professor Brooks takes up point by point the widely advertised charges against the board. In fact, he seems to have made a collection of all the accusations against the N.L.R.B. and has undertaken the valiant task of refuting them. At the very outset, he introduces the board's record as its strongest defense, by citing that in only 5 per cent of the actions brought before it "resort is had to formal hearings, reports, decisions, and orders". The remaining 95 per cent of the cases are settled without formal procedure. Unfortunately for the board, the

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publicity it receives is based on the small percentage of cases where it encounters opposition to the principle of collective bargaining. Its beneficial contribution to industrial relations in the overwhelming majority of cases is practically overlooked.

Against the charge of "one-sidedness", Professor Brooks cites instances where the board upheld company unions and how approximately 40 per cent of the cases before it were in effect decided in favor of employers, since complaints were either dismissed or settlement achieved by their withdrawal. In his estimation, the board does not play favorites, except in so far as it is charged with the administration of an avowedly pro-labor act guaranteeing to employees the right to self-organization and collective bargaining through representatives of their own choosing.

On the most crucial question of whether the board has been instrumental in promoting industrial peace, Professor Brooks's discussion is weak and evasive. In fact, at this point his defense of the board turns into an apology. One wonders why so little emphasis is placed on the relationship between industrial strife and economic activity. Such analysis would reënforce his statement that "the board has been both hailed and condemned with too much vigor" (p. 131). For, as he says, it is very unlikely that the board was much more responsible for the sharp rise in strikes in 1937 than it was for their decline in 1938.

The exaggerated charges that the board acts as judge, jury and prosecutor are ably dealt with by reference to similar procedure successfully employed by other federal quasi-judicial bodies for many years. However true it may be that specialized administrative agencies are better equipped to deal with labor relations than the courts, in the light of recent occurrences in Washington, it is highly questionable whether "members of the board are appointed by the President on the basis of their experience and special training in matters of both law and labor relations" (p. 234). The board's part in the A. F. of L. – C.I.O. conflict is oversimplified. Except for the oft-quoted figures and explanations justifying the board's decisions in cases involving the contending factions in the labor movement, no new light is shed on the subject. Similarly, the historical survey of governmental intervention in labor relations is much too sketchy and does a great injustice to the pre-N.R.A. period; for example, the War Labor Board is not even mentioned.

The dispassionate manner in which such a controversial topic is handled is a tribute to the author. As the first full-length book on

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the N.L.R.B., it should set an example for future works on the subject, a number of which are now in preparation. The popular nature of this work, however, leaves the field for a definitive study of the National Labor Relations Board wide open.

MURRAY ROSS

BROOKLYN COLLEGE

The Theory of Forward Exchange. By PAUL EINZIG. London, Macmillan and Co., Limited; New York, The Macmillan Co., 1937.—xxi, 520 pp. 21s.; $7.50.

The foreign-exchange market has always been one of great interest to the student of economics. Through it, in great measure, reciprocal liabilities of all kinds that arise in the international field are effectively "cleared"; that is to say, collective "credits" are used so far as possible to offset collective "debits", with manifest advantages of economy and efficiency. But, more interesting still, it is in the foreign-exchange market that there are brought to a focus numerous complicated forces, bearing not only on international money values and price levels, as well as on international interest rates, but also on the value of gold itself as the economic good traditionally used as the standard for the money system and as the instrument for redressing final balances in international payments.

Through a century or more a considerable literature has accumulated on the subject of the foreign exchanges, and its broad theory is usually considered as having been pretty well worked out. Down to the Great War the discussion of the foreign exchanges was quite generally based on the assumed existence of a more or less automatic gold standard according to which the currencies of all the important countries were regulated. But the collapse of the gold standard, during and since the Great War, necessitated a considerable extension of the boundaries of the discussion. Under an effective gold standard some of the factors operating in the market had their importance narrowly limited by the circumstance that, at certain levels in the rates, gold movements tended to cut short their further influence. But with gold redemption suspended, and with foreign-exchange rates subjected to governmental manipulation and control in the pursuit of objectives other than that of holding exchange rates stable, a number of the factors took on a new significance.

One of the most important of them is forward exchange. Forward-exchange rates, quoted in connection with foreign-exchange futures, have long been familiar, but never before has their full theoretical

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import been analyzed. In the book under review, the indefatigable Paul Einzig, whose contributions to the subject of money, exchange and finance are widely known, supplies us with the first complete theoretical exposition of forward exchange available in any language.

The technical nature of the subject, as well as its involved complexity, preclude the attempt adequately to present or to appraise Einzig's contribution. He indicates that his book is only an initial attempt to come to grips with the subject. Much more, he insists, remains to be done. But when one considers that he has written a book of five hundred and twenty-two pages, made up of seven parts and forty-seven chapters, with appropriate appendices, one may wonder what in such a field there may be left to do!

The book is really more than a theoretical exposition of a relatively obscure division of our functioning economy. Part I, frankly introductory, is concerned with definition of terms and an outlining of scope. Part II, made up of six chapters, deals with the general evolution of the forward-exchange systems. Here, naturally, the original approach is from the viewpoint of different early markets—Vienna, Berlin, etc.—and then broadens out to cover forward-exchange procedure throughout the world. Then follow, in Part III, seven chapters which, in sometimes trying detail, analyze forward-exchange technique in relation to its different market uses, namely, in connection with trade, foreign investments, the covering of bankers' balances abroad, arbitrage and speculation. It is in Part IV, comprising chapters xvii to xxvii, inclusive, that Einzig presents his own theoretical interpretation. In the first chapter of this part he ranges over the available literature of the subject—only to deplore its inadequacy. However, he reserves a *kudo* for John Maynard Keynes to whom he dedicates his own volume. Owing to the emphasis that has generally been laid on differences in interest rates in different markets as the factor of outstanding importance in determining forward rates, Einzig subjects this whole problem to minute examination and is very critical of the easy assumptions that most writers have heretofore made concerning it. The "purchasing power parity theory" of forward exchange is similarly examined with critical thoroughness. The nature of the remaining chapters of Part IV is sufficiently indicated by their titles: Trade Balance and Forward Exchange, International Lending and Forward Exchange, The Relation between Spot and Forward Rates, Long *v.* Short Forward Rates, and, finally, Forward Exchange under the Gold Standard and under Paper Currency. Part V, containing five chapters, is concerned with the interpretation

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of forward-exchange movements. This is a very helpful contribution to the subject because it takes up the various principal moneys in turn—sterling, dollars, francs, etc.—and expounds the development of forward transactions in terms of each. In Part VI Einzig takes up the important question of the Central Banks and Forward Exchange, discussing forward exchange as an instrument of money management. Here again his wide knowledge enables him to present some interesting historical material while he sets forth as well the implications and potentialities of forward-exchange management in relation to other money-management techniques. In Part VII to which he gives the caption "Conclusion", Einzig permits himself to indulge in somewhat broader philosophical speculation. He has, for example, a very interesting chapter on "Isolationism *v.* Internationalism in Relation to Forward Exchange" in which he shows how forward exchange has a part to play in the drama of international human relationships. And, like most enthusiasts, he cannot refrain from attempting to peer into the future. His final words picture the result of his clairvoyance—"Unless and until the individualist system is replaced by collectivism, this demand for Forward Exchange facilities will remain, and in the long run a method will be found for meeting it, even after the abolition of the Foreign Exchange market" (p. 441).

The reader will have gathered that, in the opinion of the reviewer, Einzig has added to the literature of money and banking a valuable book.

E. E. AGGER

RUTGERS UNIVERSITY

Tax Relations among Governmental Units. New York, Tax Policy League, 1938.—vi, 226 pp. $2.75.

Tax Relations among Governmental Units is a compilation of papers presented at the 1937 symposium of the Tax Policy League. Honorable Seabury C. Mastick, with the assistance of Mabel Newcomer and Tipton Snavely, arranged a program covering the gamut of items traditionally associated with the field of federal, state and local relationships. Parts I and II, comprising 80 pages of the text, are concerned with the problem of taxation; the former, federal-state, and the latter, interstate relationships. Tax conflicts, coöperation, immunity and reciprocity are the central themes appearing in these two sections. Long, Martin, Shoup, Lepawsky, Edmonds, Hatton, Snavely and Ostertag are responsible for the subject matter of these

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two parts of the book. Part III dealing with "Federal and State Aid" consists of sections written by Blough, Ecker-R. and Stauffer. "State Control of Local Finance" is treated in Part IV. In this section consideration is given to tax limitation, debt control, budgeting, governmental reorganization, allocation of functional responsibilities and state planning. The contributors are Kilpatrick, Jones, Willoughby, Egger and Cornick.

A selected bibliography organized to accord with the topical grouping of the papers is also included.

An evaluation of this work compels one to examine in the first instance the prudence of the League's decision to offer their contribution to thought in the field of intergovernmental relationships by publishing a group of loosely related papers. It appears that this sort of undertaking results in considerable dissipation of effort. The audience reached is limited, much of the material is repetitious, and a program of desirable action must of necessity be spottily developed. As an alternative the League might have considered the advisability of developing, through committee action, a statement of policy covering the whole range of fiscal relationships from the federal unit on down to the least important *ad hoc* agency.

Appearance of a comprehensive plan, prepared by persons of recognized standing and sponsored by an organization such as the League, would doubtless have appealed to a larger audience than the raw materials reported after the fashion of proceedings. Too much effort is required on the part of general readers for them to analyze, organize and appropriate to their own use the suggestions presented. Certainly, too, the forthright presentation of a plan has a challenging effect—opposition develops, the issues are discussed and action may result.

In addition to the question of the relative merits of the publication in its present form as compared with other alternatives, there is the more important one concerning omissions of items vitally significant in a comprehensive survey of intergovernmental relationships. Notable in the category of omissions is the subject matter of economic stability and its relation to budgetary behavior. Centralized management of deficit financing may mean one kind of effect on the economic system; uncoördinated and opportunistic handling results in still other effects. The significance of federal deficits has been recognized by some, but a comprehensive examination of an integrated fiscal system compels the inclusion of state and local units as well.

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It would seem also that a comprehensive discussion of intergovernmental relationships should give some consideration to the effect of various tax systems on the organization of productive resources. Certain taxes disturb relative price relationships more drastically than others. Before the more common questions of collection and sharing of revenues can be disposed of is it not essential to know first the kind of revenue system which will most effectively complement a free economic system? Reaching a decision on an elemental point such as here suggested may significantly affect immediate plans of attack on problems of intergovernmental relationships.

In arrangement of the program the committee permitted an inclusion of subject matter concerned largely with minor administrative detail. This is especially notable in the first two parts of the book. It is not contended that these items lack import, but rather that the League should direct its efforts to the broader questions of tax policy, leaving to executive groups the work of solving day-to-day problems of administration.

The discussion thus far has been directed toward the objectives of the League and the work of its committee. What of the several participants in the symposium? They may be placed in one of two categories depending upon their belief in the way the problem in hand should be attacked. There are those who advocate a policy of opportunism. Mr. Martin speaks most directly for this group. "In general the approach to a solution of the major difficulties seems to lie in continuous efforts directed toward relatively small matters, and not in an over-all attack on the comprehensive solution" (p. 25). Mr. Ecker-R. is among those representing the opposite point of view. "Viewed economically, the practice of piecemeal fiscal readjustment in central-local relations is cause for concern" (p. 101). With the latter position the reviewer is inclined to agree. It would seem that the direction in which we wish to move must first be determined before the slightest of short-run plans can be made with certainty.

PAUL E. MALONE

MIAMI UNIVERSITY

World Finance, 1935-1937. By PAUL EINZIG. New York, The Macmillan Company, 1937.—xvi, 342 pp. $3.00.

If Dr. Einzig had not preëmpted the title in one of his earlier books the present volume might appropriately have been called *Finance and Politics.* The earlier part is largely devoted to demonstrating the folly of failing to devalue currencies soon enough, and

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the latter part is concerned with the folly of failing to devalue them far enough. The first mistake involved the ravages of deflation for the countries involved and the second prevented the structure of public and private debts from being adjusted to a position where it could be maintained without weakening the national economies.

Against this background are traced the leading political events of the period. In the author's opinion, the major political developments of these years, such as the occupation of the Rhineland and Italy's Abyssinian venture, were made possible by the stubborn refusal to devalue the franc, since the resulting deflation sapped the strength of France; i. e., for the sake of the security of the franc, French officialdom sacrificed the security of France (p. 156). More generally, the existence of the Gold Bloc, whose leader was France, prolonged the economic depression at least two years (p. 241). In the end, a revolution was prevented only by the eleventh hour devaluation of the franc (p. 165). Dr. Einzig exhibits no restraint in assigning reasons why devaluation was first opposed and then restricted: French reactionaries are accused of resisting devaluation in the hope that a worsening of economic conditions would discredit social legislation (p. 160); the Communists, on the other hand, were satisfied to see deflation and depression run their course since "what they wanted was economic collapse and chaos so as to be able to fish in troubled waters" (p. 179); and this for the attitude of conservative economists: "They derive a sadistic pleasure from inflicting suffering upon others, while they themselves are sheltered by their professorial salaries" (p. 206)!

While France occupies the center of the stage, considerable attention is devoted to the experience of other countries, especially England, the United States, Italy, Holland and Switzerland. The course of public opinion, the influence of the press, the attitude of official and financial leaders are described in detail. Events are explained in the light of the author's judgments as to the character of particular individuals. While the comments are always interesting and often enlightening, the resulting picture is misleading. It is seldom accurate to interpret official policies, as the author does, in terms of deliberate intention. In this period, even more than in most, policies were governed by events. Without denying that opportunism was the rule, it should be recognized that at the time the measures taken were not as unreasonable as they can be made to appear in retrospect.

The book has many shortcomings: despite a mass of detail there are glaring omissions (for example, there is little discussion in the

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text, and no mention in the index, of short-term capital movements); statistics are conspicuously few; as a record of events it is less satisfactory than a number of periodicals and official publications; and as an interpretation it suffers from the distortion consequent upon the narrowness of the author's thesis. In short, it is not "scientific". But nevertheless it has distinct virtues: it is interesting; there is a wealth of intimate incident and illuminating, caustic comment; the discussion of sanctions, the Tripartite Agreement, armament finance, and other problems is stimulating; and, finally, for all he rides his thesis of the connection between finance and politics into the ground, there is a very great deal in what he says.

CHARLES R. WHITTLESEY

PRINCETON UNIVERSITY

Out of Revolution: Autobiography of Western Man. By EUGEN ROSENSTOCK-HUESSY. New York, William Morrow and Company, 1938.—xii, 795 pp. $6.00.

Professor Rosenstock-Huessy's long and puzzling book is in the more romantic strain of the tradition of the philosophy of history. It belongs with Hegel and Spengler rather than with Condorcet and Buckle. Indeed, in some senses, it seems to belong with Swedenborg. Professor Rosenstock-Huessy was inspired—and we must here understand the word in its strong meaning of divine seizure—on the battlefield of Verdun to give a message to humanity. The message first appeared in German in 1931 as *Die Europäischen Revolutionen;* the present book is the author's reworking of the old material into English.

The reviewer's unavoidable task of trying to make clear what is in the book he is reviewing is here extraordinarily difficult. You cannot outline a rhapsody, an evangel. Professor Rosenstock-Huessy is the historian of men's passions, hunches, unearthly aspirations; their piddling little "rational" systems, their mere chronological annals, interest him not at all. Indeed, one of his favorite devices to confound the common sense of the vulgar is to apply what he calls "Polybian" notions of rotation of government to the most diverse combinations of time and place, so that, for instance, Noah seems to come out the spiritual and temporal equivalent of Thomas Paine, and Hugo de St. Victor in his eight orders of the Sacraments outlines the ideologies of revolutions from 998 to 1917. The first part of the book takes up, in reverse chronological order, the great revolutions in Russia, France, England of the seventeenth century,

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Germany of Luther's time. Then comes a discussion of the ways in which governments and societies change, and a second part "From the Roman Empire to America: the Clerical Revolutions" in which reflections on the American Revolution rather oddly tie on to a discussion of conventions and revolt within the Roman Catholic Church. Throughout the book Professor Rosenstock-Huessy leaps from subject to subject, goes off at a dozen tangents, brings in flashes of what may well be profound imaginative insight. His supply of facts seems inexhaustible, if at times irrelevant. As always with these great surveys of history, the specialist can readily catch Professor Rosenstock-Huessy up for inaccuracy here and there. But on the whole it is the far-fetched interpretative use he makes of data, rather than actual defective data, that will shock the orthodox social scientist.

The author knows he will be misunderstood and is fully prepared. "My generation", he writes, "has survived social death in all its variations, and I have survived decades of study and teaching in scholastic and academic sciences. Every one of their venerable scholars mistook me for the intellectual type which he most despised. The atheist wanted me to disappear into Divinity, the theologians into sociology, the sociologists into history, the historians into journalism, the journalists into metaphysics, the philosophers into law, and—need I say it?—the lawyers into hell, which as a member of our present world, I never had left."

The reception of this book in America is perhaps of more interest than the book itself. Newspapers and the intellectual weeklies, though sometimes inclined to feel there *must* be depth in writing so perplexing to workaday minds, have in general expressed a complete inability to understand the outpourings of so German a soul. Professional historians both here and abroad have of course condemned the book, as they condemn anything in the nature of "philosophy of history". But the general public has always been interested in these broad efforts at historical synthesis, and there are numerous efforts at such synthesis in English. If, however, you read Buckle, Spencer, Toynbee, even Henry Adams, over against Professor Rosenstock-Huessy, you cannot but feel that you have been in different worlds. It seems too bad to have to admit such differences, especially as they can be readily turned to the uses of racist and nationalistic propaganda most of us would like to see minimized. Perhaps there is nothing in Professor Rosenstock-Huessy's *biological* inheritance that made him write this book; but the *social* and *intellectual* inheri-

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tance from which the book emerges is just as hard a fact as any the biologist studies. The Germans themselves, in their clearer moods, have a word for it: *Schwärmerei*.

CRANE BRINTON
HARVARD UNIVERSITY

Le Nationalsocialisme Allemand: Ses Doctrines et leurs réalisations. By H. MANKIEWICZ. Tome I. Paris, Librairie Générale de Droit et de Jurisprudence, 1937.—xxiv, 248 pp. Fr. 45.

The present volume is the first of a series which will present a systematic inquiry into the nature and activity of national socialism. It is published under the auspices of the Institute of Comparative Law of the University of Lyon. The author is the secretary general of the Institute, a young German scholar, who left Germany in 1933. Although he left Germany in his late twenties, he had apparently received a very good training in law and in government, and this training helped him to produce one of the best studies which exist on the theory of national socialism. It deals with the national socialist *Weltanschauung*, its rôle in present-day Germany, and its opposition to the philosophical and social conceptions of liberalism and of the Western world. A second volume will discuss in greater detail the ideas and institutions which this *Weltanschauung* aims to substitute for those which prevailed in Germany, in common with the rest of Europe, before the advent to power of national socialism. Future volumes will examine the different aspects of the new order or regimentation of life in Germany from the point of view of law and the social sciences. But it is extremely commendable that this proposed series is preceded by a general volume on the national socialist *Weltanschauung*. For it is not always clearly understood outside Germany that this *Weltanschauung* is the all-pervading and coördinating force in the multitude of new laws, regulations and institutions which have entirely changed social and private relations in the Third Reich.

The national socialist *Weltanschauung* is difficult for non-Germans to understand. It destroys the foundations on which Western civilization has been built. It does not recognize any generally valid law, moral obligation or truth. It proclaims the vitalistic forces of life, which defy all definition and which are by nature dynamic and irrational, as the highest regulating norm, and a norm which is in no way generally valid but different for every racial group. Men are governed by biological forces which in their turn determine law and science as well as art and personal conduct. The author of the

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present volume quotes frequently from national socialist literature, using only officially recognized national socialist authorities. He refrains from any personal judgment or reaction, and he succeeds in presenting as objective and as scholarly a discussion as is possible with such highly mystical concepts.

The author first defines the word *Weltanschauung,* and then he interprets the national socialist opposition to the principles of the French Revolution and to the liberal and democratic state as well as to the capitalistic and bourgeois society and mentality. The French and English reader will find of special interest the discussion of events and developments during the Weimar Republic. The author shows convincingly how feeble the foundations of the Weimar Republic were and how strongly they had been undermined long before 1933. The roots of national socialism and of its doctrines are traced back to the past of German society and German thought. In many ways national socialism only took up, expanded and sharpened points of view which had been expressed very often by German sociologists, political scientists and philosophers. The excellent documentation which Dr. Mankiewicz provides in the copious footnotes and in the annexes furnishes an opportunity to present the different shades of the flexible theories of national socialism and to indicate the sources of pre-national socialist days which influenced the present *Weltanschauung.* It is not always so clearly shown, and not always understood outside Germany, that national socialism regards itself as an absolute negation of all the foundations upon which European civilization had been built, of Christianity, rationalism, individualism, liberalism and humanism. There is probably no better introduction to national socialism in any language than the present volume, and the Institute of Comparative Law at the University of Lyon is to be congratulated on this scholarly and timely venture.

HANS KOHN

SMITH COLLEGE

Michael Bakunin. By E. H. CARR. London, Macmillan and Co.; New York, The Macmillan Co., 1937.—x, 501 pp. $6.50.

A friend once asked Michael Bakunin what he would do if he succeeded in translating his dreams into reality. "Then I should at once begin to pull down again everything I have made", he answered. This reply is the key to an understanding of the personality and ideas of the irrepressible and tempestuous anarchist leader of

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whom Mr. Carr has written the first well-documented biography in English. The career of Marx, his indomitable rival in the First International, represents discipline, assiduous application, scientific method. Mr. Carr's book portrays a Bakunin whose life and ideas are the very opposite of order and method. It is the classic example of restlessness, of disorganization, confusion and contradiction.

The spoiled son of a large, serf-owning family, Bakunin drifted rapidly from the military calling for which he was at first destined to the dream world of romanticism and of philosophical idealism from which he never emerged. Unlike Marx, Bakunin did not think through the complex problems of his age. Hence the ease with which he abandoned parliamentarism for anti-parliamentarism and Slavophilism for anarchist internationalism. His lack of self-discipline reflected itself in his incoherent, vaporous and seldom finished writings. He had a temperamental scorn for consistency of thought, which explains in part why his checkered career was void of any concrete attainment. Mr. Carr shows that Bakunin's personal life, like the numerous secret organizations which his fertile imagination concocted, was a complete failure. Frustrated in his sex life through impotence, he lavished his affections on the first newcomer who displayed any sympathy for him or for his ideas. Bakunin's financial relations with friends, even with strangers, were indeed scandalous. He did not win friends; he hoodwinked them. Only the young and ruthless Nechaev excelled him in this talent.

Bakunin loved revolution for revolution's sake. Once in the midst of one he was courageous, indefatigable, anxious to stir the passion for destruction. Caussidière is reported to have said of him in the early days of the French Revolution of 1848: "What a man! On the first day of a revolution, he is a perfect treasure; on the second, he ought to be shot."

Mr. Carr's portrait is correct in general outline, but it is both incomplete and faulty in detail. Like his subject who feared the State and ran away from it, Mr. Carr fears social theory; and when he attempts to grapple with it, the result is often immature. His contrasts of Marxism and Bakuninism sometimes border on the superficial. Marx, he says, was a man of "study and theory", while Bakunin was one of "impulse and action". Any biography of Marx, even the one by Mr. Carr himself, is sufficient to show that Marx's life is the perfect example of the unity of thought and action. But let us assume that the author's distinction between the two revolutionists is sound. In the light of that, it is a contradiction to say

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that "Both conceived revolution as the product of an Hegelian antithesis between positive and negative", and then to conclude that Marx could have subscribed to Bakunin's dictum: "The passion for destruction is also a creative passion." A closer study of the philosophical bases of revolution in Bakunin and Marx would have convinced Mr. Carr that there is a wide chasm between the narrow, stilted, Proudhonian theory of the antinomies of the first, and the broad, flexible, dialectical process of the second. The first theory abuts on a world of make-believe, and can point the way to fascism; the second logically leads to the examination of reality, to the doctrine of historical materialism, and inevitably terminates in a proletarian state.

The same surface knowledge of Marx's theory is apparent in other parts of Mr. Carr's volume. According to him, Marx and Engels regarded nationalism as a reactionary force. But a reading of the Marx-Engels correspondence convinces us that the two Communists viewed German unification as a progressive step for the labor movement on the Continent and Irish liberation as a means of hastening the emancipation of the working class in England. Nor is it correct to say that Marx was denouncing the bourgeoisie in the first few months of the *Neue Rheinische Zeitung*. The fact is that in the early period of that paper Marx appealed to all progressive forces and strove to build a Popular Front against reaction.

Space prevents further mention of other similarly unfounded assertions. Mr. Carr's *Michael Bakunin* is unquestionably a courageous venture in biography, considering the vast and widely scattered sources in several languages, which the author had to examine. But it is not a thorough work. It is a careless one.

SAMUEL BERNSTEIN

NEW YORK CITY

Fascism for Whom? By MAX ASCOLI and ARTHUR FEILER. New York, W. W. Norton & Company, Inc., 1938. — 341 pp. $3.00.

Max Ascoli and Arthur Feiler, members of the Faculty of "The University in Exile", have prepared a study which contains valuable information on the fascist and national socialist experiments and helps in no small degree to understand some of their more important characteristics. So much, however, has been written on the two brands of fascism that it is practically impossible to deal with the subject without repeating what has been said before. It is inevitable,

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therefore, that Messrs. Ascoli and Feiler should cover the same ground that has been traversed by earlier writers, and it is greatly to their credit that they have succeeded in presenting a vivid, well-rounded and informative picture of the principal political, social and economic developments in the two countries. The authors agree that the one-party state which Mussolini and Hitler borrowed from Russian communism and which is the essence of political fascism is not run for the benefit of any economic or social class, except perhaps the party bureaucracy. This common-sense approach, which, of course, is by no means novel, is somewhat spoiled by the regrettable tendency of Messrs. Ascoli and Feiler to picture fascism as endowed with logical coherence and inner unity to a degree which it certainly does not seem to possess. Fascism, like any other mass movement, has been largely the creature of circumstance; the structure of its institutions is haphazard and often contradictory. This is particularly true of the economic policies of both fascism and national socialism, policies which can be often traced to international developments outside the control of the governments of Rome and Berlin and independent of ideological considerations. Messrs. Ascoli and Feiler, unfortunately, disregard this extremely important factor, and this leads them to overestimate somewhat the rôle of fascism outside Italy and Germany. The authors, moreover, have a strong liking for apocalyptical imagery which does not necessarily add to the clarity of the exposition. "Truly," they write, for instance, "Fascism is a mirror of our society in which the civilized world can plainly see what it has made of itself", a statement which is neither clear nor convincing, especially since Messrs. Ascoli and Feiler themselves produce a very coherent explanation of the process which brought the two fascisms into existence in Italy and Germany. There is nothing universal about it.

It is a matter of particular regret that the authors should put their great reputations behind a theory which has recently received much circulation in the general press, namely, that fascism, and especially national socialism, is merely a version of Russian bolshevism. Of the differences between the two antagonistic systems the authors are perfectly aware, but they dismiss them by speaking of general tendencies and trends instead of concrete situations. It is crystal clear that the one-party state as the instrument of political dictatorship is the same in the Soviet Union, Italy and Germany, but it is just as obvious that no amount of government control can erase the basic difference between private and public ownership of means of production, be-

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tween farming on small independent holdings even when government regimentation has reached a very advanced degree (by the way Dr. Feiler should have consulted the Law of December 21, 1936, on hereditary farms) and Soviet collective farms. There is nothing to indicate that the implacable cleavage between the two ideologies is "gradually being bridged over from both banks." The trend toward the expansion of government controls over business has been manifest in every country, including the United States. Does this offer a sufficient ground for the conclusion that the difference between the United States government and fascism is about to disappear? This, of course, has been said in the heat of the recent presidential campaign, but no reasonable person takes such accusations seriously.

Messrs. Ascoli and Feiler have a good paragraph in which they warn against "ambiguous words . . . so often used in political speculation" such as "chaos", "catastrophe", "inevitable breakdown"; "very pernicious words indeed, which had better be eliminated entirely from the political vocabulary" (p. 306). Yet they forget their own excellent advice and conclude with an appeal to resist the march of fascism on the ground that its triumph "would mean no less than the end of Europe" and would also spell the doom of America. The kind of action the authors have in mind remains uncertain. "This is not an appeal to a holy war; it is an appeal to faith based on faith." Collaboration between the democratic and the fascist countries must be stopped. "This requires a supremely moral effort", Messrs. Ascoli and Feiler add by way of explanation, thus entering an exalted realm where the reviwer finds it impossible to follow them.

MICHAEL T. FLORINSKY

COLUMBIA UNIVERSITY

Fascist Economic Policy: An Analysis of Italy's Economic Experiment. By WILLIAM G. WELK. Cambridge, Harvard University Press, 1938.—xx, 365 pp. $4.00.

To those looking for further light on the processes and meaning of Italian fascism this book is likely to be disappointing. Its main purpose is stated to be "objective description and analysis of the new economic system evolved by fascism in Italy." Description—of historical background and formal structure of the corporative institutions—bulks large; but the analysis is sketchy. There is only a meager evaluation of economic policies and their bearing on population growth, agricultural and industrial production, foreign trade,

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public finance, employment and wages. A discussion of Italy's foreign trade during the sanctions episode is informative, but little else in the book is unfamiliar to observers of fascism. Summaries of the texts of important laws and a mass of tabulated statistical data should be a convenience to students who cannot readily consult the Italian documents.

In the main, Professor Welk does not penetrate beneath the surface of official data and official explanations—although even on this plane more might have been accomplished. It is notable that he ignores the findings of other investigators, for example, Salvemini, Rosenstock-Franck, Vöchting, Haider, Field. Perhaps this is in accordance with the author's belief that inasmuch as "personal and political biases have so often colored even firsthand accounts . . . there seems to be justification for a fresh attempt at an objective study of fact" (p. 159). But he neglects numerous problems that must be explored in any search for the significance of fascist economic policies.

An example of this is the answer given by Professor Welk to his question: "What has been the economic position of the Italian laboring classes under Fascism?" (pp. 231 *et seq.*). He presents official indexes which show that real wages of agricultural workers fell during 1922-34 by about 8 per cent. (The indexes, however, take no account of the great increase in rural unemployment in 1930-34.) For this, the decline of emigration and of "employment opportunities for farm youths in industrial centers" was largely responsible. As for industrial workers, their situation was "not very much better." Disregarding social insurance and social welfare activities, the condition of Italian labor in general "has not only failed of improvement but has been made worse—certainly in agriculture, and most probably in industry." This is doubtless true. But—even granting that the author's question "cannot be answered fully and satisfactorily at the present time"—the analysis might have been pushed further, and with profit. Is it not possible to throw light on the adequacy of the official wage series by examining the terms of labor contracts and newspapers' comments on the enforcement of the contracts? Do not the available data on food consumption offer evidence on living standards? How have unemployment relief, social insurance, and the mounting burden of taxation affected workers' incomes? What do the contracts say about hours of work? How has the "work-sharing" program affected industrial workers? What is the significance of the payment of agricultural wages in

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kind? of internal and external colonization? of the policy of "fixing farm workers to the soil"? Surely some attempt at answering these and related questions is desirable for an estimate of labor's position under fascism.

Other matters of wide scope, too, are not probed. In view of the importance of rural life in Italy, Professor Welk's treatment of agricultural policies and the situation of peasants and landlords is remarkably scant. Nor does he indicate how the urban middle classes, big and little business men, the bureaucracy, have fared. Is the government encroaching on the entrepreneurial functions of business men? The establishment of "category corporations" is said to be "the most important step taken so far toward industrial self-government in Italy" (p. 117). Yet the "corporations" are, in practice, "under the complete control of the Fascist party" (p. 145). What does this mean? Professor Welk believes that the corporate system is "an instrument used by the totalitarian Fascist state for the achievement of its ultimate economic and political ends" (p. 250). But what are these ends? Whom do the fascist politicos serve—the nation, big business men, the workers, themselves? Professor Welk does not answer this question directly, but apparently he accepts the fascist leaders' claim that their goal is a "strong" and "powerful" Italy.

In his final chapter, the author evaluates the Corporate State (pp. 242 *et seq.*): "While, then, the leading economic policies adopted by the Fascist régime may have served to increase the country's economic independence and political prestige, they cannot be said, so far at least, to have contributed to her economic advancement or to an increase in the economic well-being of the Italian people. Population growth, economic independence, and colonial expansion are being paid for by the mass of Italians through a lowered standard of living." Nevertheless, "the mass of Italians sympathize with Fascism and, on the whole, support the régime." "There is . . . little encouragement . . . for the mass of Italians to think independently or to strive earnestly after truth. . . . The intellectual stagnation born of these conditions is already apparent. . . . [It] is bound in time to affect the quality of the Italian governing class." Professor Welk is convinced that "the future and real progress of Italy will depend" upon the return of liberty and democracy. This may be correct, but it is hard to see that such a conclusion flows out of the study itself.

CARL T. SCHMIDT

COLUMBIA UNIVERSITY

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This Is Democracy: Collective Bargaining in Scandinavia. By MARQUIS W. CHILDS. New Haven, Yale University Press, 1938.—xvii, 169 pp. $2.50.

From a perusal of this book one definitely gets the impression that the subtitle is more relevant to its scope than the title. The author, however, apparently considers collective bargaining the all-important question in a democracy, for he exclaims: "This is democracy, labor's own democracy, directed by men from the ranks."

We are given a clearly and simply written report of how labor has organized "a campaign in which not infrequently harsh measures have been employed." The effectiveness of this campaign is shown by the fact that in Sweden today nearly one sixth of the population belongs to trade unions. In spite of efforts made in that country to rationalize trade-union structure the conflict between craft unions and industrial unions continues. In Denmark no such concerted effort has been made, and consequently a greater number of small craft unions remain. Mr. Childs believes that the trade-union movement in Norway — comprising about one tenth of the population — has a strong revolutionary undercurrent. He finds this is owing to the fact that most industrial workers are not far removed from the land, where they knew the independence of small holdings. It would certainly have excited our attention had the author elaborated on this most perplexing explanation. In order to demonstrate the salutary effect of organized labor he confidently asserts that "in 1905 the mere threat of a general strike [in Sweden] swung the balance of peace in the bitter dispute over Norway's demand for independence from Sweden" (p. 5). Historians would have been gratified if the author had furnished conclusive documentation for this doubtful disclosure. He gives exclusive credit to the Norwegian Laborites for attempts to bring Norwegian industry owned by foreigners under domestic control, though substantial legislative enactments had in fact sought that goal before Laborites became influential in the government.

Mr. Childs heartily approves of labor's claim to some authority over management of industry. He inclines to believe the future of the trade-union movement depends upon such a policy. In democracies modern economic society is, of course, characterized by competition and struggle for power among organized groups. The author describes the attitude of the Employers' Association in Sweden, which is definitely opposed to interference by large masses in the management of business and insists upon the right to hire and fire.

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"All this is very much in character, first of employers in general and more particularly (*sic*) of Swedish employers" (p. 28). We are reassured, however, that Swedish employers come nearer to discussing problems with representatives of labor in an atmosphere of tolerance and understanding than in any other part of the world. In this civilized manner of carrying on wage disputes everyone may rejoice with the author.

A careful reading of the book does not leave the impression that organized laborers and organized employers at all times joyously walk arm in arm along the "middle way". Indeed, we are reminded of the study published by the International Labor Office at Geneva for the decade 1927-37, which shows the three Scandinavian democracies had the most man-days lost per thousand workers in industry as a result of wage disputes. It appears to the reviewer that in the long run the damage done must be reflected in a general reduction of the national dividend. Only by aiding in securing sound economic policies for their own country can the various groups themselves prove their social utility. This fact, we are assured by Mr. Childs, is fully appreciated by labor in the Scandinavian countries, especially in Sweden. Collective bargaining is a complex problem of numerous variables that may combine with one another in an indefinite number of ways. The author does not overlook some of the organic differences existing between America and the Scandinavian north. He grants that the structure of trade-unionism is to a great extent dependent upon the fluctuating current of world trade.

The book also discusses the farmer and the worker, workers' education courses, housing and health problems, training of household assistants, and the labor governments—all sympathetically interpreted by a diligent reporter. But the reader will not find penetration into the more elusive aspects essential to an understanding of political and social life in the Scandinavian countries.

ANDREAS ELVIKEN

TEMPLE UNIVERSITY

The Senate of the United States: Its History and Practice. By GEORGE H. HAYNES. Boston, Houghton Mifflin Company, 1938.—2 vols. x, 1118 pp. $8.50.

Professor George H. Haynes has long been known as a special student of the Senate, who has written articles and monographs illuminating various features in the working of that august body. His many years of patient and industrious examination into almost

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every conceivable source of information with respect to the Senate have now borne fruit in these two volumes. They constitute the first comprehensive treatise on the Senate yet produced, and their excellence is testimony to the painstaking and realistic character of Mr. Haynes's scholarship.

In twenty chapters the author sketches the historical development of the Senate from the Convention of 1787 to the controversy over the Supreme Court Bill and the appointment of Mr. Justice Black; and he makes a detailed analysis, within the appropriate setting of time and circumstance, of the numerous topics relating to the various powers, rules, practices, traditions and customs of the Senate, such as financial legislation, impeachment, treaty-making, filibustering, investigations, committee system, patronage, senatorial courtesy, the Vice President, and including even dueling, dress and diet. There is a most useful study of the Senate personnel—the age, education, professional and political training and experience, length and continuity of service, etc., of Senators; an interesting chapter on the physical surroundings, work rooms, and general working conditions; and excellent chapters on the relations of the Senate with the House and with the President.

These volumes are timely in throwing considerable historical light on current problems and controversies. The analysis of the Senate's power of "advice and consent" in respect of appointments, for example, indicates the early, frequent, and occasionally extravagant use of the rule of senatorial courtesy, but it also suggests a growing conscience concerning this matter on the part of many Senators (such as Norris and Borah) and several notable departures from the rule during recent years. The books are literally mines of information about important problems that have come before the Senate or have somehow involved the Senate. The treatment is in general so comprehensive that it is all the more disappointing to note a conspicuously scanty discussion of the party organization and its operation—there is some, but not enough, attention to the Caucus, no systematic study of the Floor Leaders, only six lines to the Whip, only nine lines to the Senatorial Campaign Committee, and only one page to the Committee on Committees.

Mr. Haynes has during his years of study of the Senate come to certain pronounced conclusions, and occasionally he presents these conclusions in no uncertain terms. The Senate's record on the World Court issue, for example, he considers a revelation of "a chronic 'oppugnation' and obstructionism in the Senate's dealings with for-

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eign relations such as could not last a week in any other nation's parliament" (p. 711); he refers to the round-robin of 1919 as "a dictatorial attitude" (p. 698); and he predicts that the report of the Senate Foreign Relations Committee on the Treaty of Versailles will in coming years "be read with astonishment" (p. 701n). He obviously does not think highly of Senate debating practices, referring to the "fantastic straining of senatorial courtesy" and the "preposterous lengths" to which irrelevancy has been carried in debate (p. 424). In most matters of controversy between the President and the Senate, his sympathies seem to lie with the President, and he would certainly endorse the recent statement of Senator Thomas (Utah), in connection with the nomination of Judge Roberts, that the Senate "has been and will probably ever remain a chronic irritant to most Executives." On the matter of the Supreme Court Bill and the appointment of Mr. Justice Black, however, Professor Haynes is strongly antagonistic to the President, but also vigorously critical of the Senate for its "headlong and heedless confirmation" of Black. On the whole, the judgment of Professor Haynes seems to be that the Senate has in the past fulfilled pretty well the purposes for which it was established but that the present problems of American democracy require a new spirit of independence and responsibility in the Senate, which can only be secured by the election to that "citadel of law, of order, and of liberty" of strong, progressive and trustworthy men. The volumes are well done and deserve the attention of every student of American government.

CLARENCE A. BERDAHL

UNIVERSITY OF ILLINOIS

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BOOK NOTES

Growth of American Manufacturing Areas, by Glenn E. McLaughlin (Pittsburgh, Bureau of Business Research, University of Pittsburgh, 1938; xxvii, 358 pp. $3.00), is No. 7 of the Monograph Series issued by the Bureau of Business Research of the University of Pittsburgh and, like the preceding numbers that have come under the eye of the reviewer, is a solid piece of work. Besides an introductory chapter the volume contains four chapters of measurement and statistical analysis and three chapters of interpretation plus the usual bibliography and index. The statistical chapters are based upon data for the thirty-three industrial areas, and more fully for the thirteen major areas of this group, which have been separately presented by the federal census since 1929 and which the author has carried back with great labor and patience to 1870. The Pittsburgh area, to which the last two chapters of the book are mainly devoted, is used as a region of reference and special study. Four measurements — gainful workers, population, manufacturing wage-earners and value added by manufacture — form the basis of the analysis. Graphs relieve the pages of an undue burden of tabular material. Only specialists will read in critical detail the 170 pages of compactly arrayed facts that constitute the analytical chapters, but their meaning can be deciphered without tedious scrutiny and they embody a technique that opens a promising approach to some fundamentals of industrial geography. Abundant information concerning forces that have influenced general industrial growth and the fortunes of specific branches of manufacture in particular areas appears in the interpretative chapters. Like Edgar M. Hoover's *Location Theory and the Shoe and Leather Industries* published the preceding year — from which it differs widely in method, however—this study is an original and significant contribution to both the regional history and the location economics of American manufacturing. Moreover it supplies and organizes factual material for further investigation of a subject which Alfred Weber pioneered in Germany before the World War and to which his *Reine Theorie des Standorts* ten years ago gave status as a new department of economic thought.—VICTOR S. CLARK, Washington, D. C.

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Das Internationale Steuerrecht des Erdballs, Abteilung I: *Europa,* edited by Richard Rosendorff and Josef Henggeler (Zürich-Leipzig, Verlag für Recht und Gesellschaft A.-G., 1936 and 1937; 3 vols. xxviii, 2059 pp. 50 fr.), presents a competently edited, amply annotated and lavishly documented compilation of the basic statutes and the principal administrative rulings which govern the taxation of aliens and foreign enterprise in the more important industrial and commercial nations of the world. It likewise presents a syllabus of bilateral and multilateral treaties which have been entered into by national governments with a view of providing for reciprocal fiscal treatment of their nationals, who, in the absence of such agreements, would be subject to oppressive multiple taxation. The countries covered in Volumes I to III of *Steuerrecht des Erdballs* are: Austria, Belgium, Bulgaria, Czecho-Slovakia, Denmark, the Free City of Danzig, Finland, France, Germany, Great Britain, Greece, Hungary, Ireland, Italy, Jugo-Slavia, the Netherlands, Norway, Poland, Portugal, Rumania, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics and numerous sovereign principalities located on the continent of Europe. The abstracts for each country are prepared by native experts of established reputations, many of whom are old acquaintances of American students of public finance. Profitable perusal of the entire work presupposes a knowledge of German, French and Italian, as well as English. The materials relating to Belgium, France, Portugal, Rumania, Spain and Turkey are written in French. British and Irish materials are presented in English and the section dealing with Italy's statutes in Italian. The treatment of the other countries, save that of the principalities in cultural juxtaposition to other nations, is in German. The work must not be confused with tabular compilations of general tax laws with which the American reader is familiar. It differs from those productions in that it deals exclusively with statutes relating to the taxation of foreigners, and within that delimited scope is considerably more detailed and authoritative than general tax law compilations. *Steuerrecht des Erdballs* is likely to prove very useful to the academic student of public finance and that selected group of lawyers, accountants and bankers whose clients participate in international affairs. The general student of economics, if he should venture the worthwhile task of browsing through the two thousand pages of this work at his leisure, will be impressed by the forbidding reflection of mercantilism, cameralism, protectionism and economic nationalism that is cast upon every page. If the student happens to be an economic

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liberal, he will agree with Dr. Rosendorff and Dr. Henggeler, when they observe in their Introduction, "Today . . . all countries legislate against imports and subsidize exports. Starvation stalks in one land and surpluses glut the markets of another . . . there is but one ray of light: some responsible persons in all nations agree that the policies of the recent past are suicidal, that their continuance will provide coming generations with an economic heritage so poor as to make it difficult to sustain life" (vol. I, p. viii).—PAUL H. WUELLER, Pennsylvania State College.

This slim volume for the student of labor statistics—*Wages and Income in the United Kingdom since 1860* (Cambridge, at the University Press; New York, The Macmillan Co., 1937; xix, 151 pp. $2.50) by A. L. Bowley—contains valuable material in a condensed form. The author has summarized the results of his earlier statistical efforts in the field of wages and income and has given exact formulae for the methods he has used in comparatively recent years. The recapitulation and clarification of the early studies are of great importance in a field which has long suffered because of scattered and incomplete recordings. The later studies are, of course, richer and for that reason exceptionally helpful to the economist who must use them. The base year for the present book is 1880, by which date, says the author, the figures are sufficient for fairly precise statements. Beginning with this base year, three periods are studied: 1880 to 1914, 1914 to 1924, 1924 to 1937. According to Professor Bowley, real wages rose rapidly during the first period to a temporary maximum in 1895-6, increasing by some forty per cent in nearly fifteen years. The author further suggests that the date marking the end of this rise in real wages may just as accurately be placed at 1899 since it is doubtful at what point in the 'nineties prices were effectively at their minimum. He records also the rise of wholesale prices and the doubtful measurement for real wages from 1898 to 1902, the period of the South African War. From this time, except for the brief crisis around 1907, the study shows that there was no significant change in real wages during the thirteen years preceding the Great War. The author attempts no estimates for the years between 1914 and 1924 because of doubt concerning the movements of average wages and the actual cost of living during this extraordinary period. He has, however, concerned himself with the *result* of all changes from 1911 or 1914 to 1924, a year in which wages were temporarily stable. During that period, Professor Bowley has discovered, the average full-time money earnings increased ninety-four

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per cent and the gain in real wages was about ten per cent. After 1924, the author continues, prices fell, gradually reaching a minimum in 1933. They then took an upward turn which continued into 1937, publication date of the book. Money wages, however, began to fall only in 1926, and fell much more slowly than prices. Real wages, therefore, rose some eighteen per cent from 1924 to 1937, according to Professor Bowley's cost-of-living index-number. The author has not overlooked the division of income into the classes which he terms "arising from property" and "arising from employment" but he also recognizes that this division is not clear. He lists a rise in the number of salary workers at the expense of the number of wage-earners, but he also recognizes that the division of income from wages and from salaries is artificial, if it depends merely on the method of contract or payment. Most valuable for the serious student of the subject are the six extensive appendices which include eighteen tables that cover the entire period of the study. These appendices, containing notes on various phases of the work, are also useful because of their reference to the original source material.—CARROLL R. DAUGHERTY, Washington, D. C.

Dr. Henry L. Shepherd has presented in *The Monetary Experience of Belgium, 1914-1936* (Princeton, Princeton University Press; London, Humphrey Milford, Oxford University Press, 1936; xvii, 271 pp. $3.00) an illuminating account of the Belgian experience with monetary inflation, devaluation and stabilization from the World War down to 1936. While Belgium had some conditions and circumstances differing from other countries which have gone through similar experiences since the War, the striking similarity of her monetary and financial experiences with those of France, and even with the progress of inflation in the United States, is of special significance. No other country had the problem of dealing with so large a volume of depreciated German marks, which had been forced upon the Belgian people during the period of the German occupation. The high rate at which the marks were converted after the War caused a vast smuggling of more marks into the country. This swelled the volume of currency and the depreciation of the Belgian franc was greatly accelerated. The government subsidy for rehabilitation was another factor which hastened depreciation. The currency became redundant and the demand deposits in the National Bank increased. When the velocity of the currency was increased by the government borrowing and the excitement of inflation fears, depreciation was unavoidable. At first the velocity fell far short of the pre-war period. For ex-

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ample, in August 1921 wholesale prices were 347, based upon April 1914 as 100, while the note circulation was 613, based upon July 1914 as 100 (p. 71). This decline of the velocity of circulation with the rise of redundant currency and bank deposits may be noted at periods in every country which has gone through inflation experiences in recent years. The indices of exchange rates between Belgium and France followed the same patterns. The course of business, prices and the movement of the two currencies were sympathetic. Two desperate efforts to stabilize the Belgian franc failed. The failures were partially political and psychological. Devaluation and stabilization were successfully carried through in October 1926. After the stabilization, wages rose faster than the cost of living. There was a heavy inflow of gold. Stock market prices rose and there was a general feeling of prosperity. The depression of 1929 hit Belgian industry and finance forcefully. A second devaluation was carried through in April 1935 under the pressure of deflation and falling prices in all markets. Then Belgium enjoyed a second wave of inflation prosperity. Here the book ends. The bibliography is a useful supplement. This is a valuable case addition to financial history resulting from inflation and devaluation.—IVAN WRIGHT, University of Illinois.

The gradually diminishing body of advocates of a gold standard will find much to comfort them in Professor Albert Aftalion's little book, *L'Or et la monnaie: Leur valeur; les mouvements de l'or* (Paris, F. Loviton et Cie, 1938; 124 pp. 25 fr.). No doubt the money managers will object to Professor Aftalion's conclusion that the paper money advocates who claim stability of prices and economic prosperity base their reasoning upon England's experience in recent years, when world prices were falling, and thus they fail to perceive that as world prices rise such stability will disappear. Professor Aftalion points out too that the three quasi-paper, quasi-gold systems in France, since October 1936, did not effect economic stabilization. The rise in prices which did occur resulted not only from devaluation, but also in large part because of world price rises, and because of the social and financial policies undertaken by the government. Furthermore, he defends a gold base because gold does put a brake upon prodigality, inflation and irrationality. The general procedure in this book is to discuss first the exchange value of the monetary unit, then the price and purchasing power of gold, and finally international gold movements. This is done for the various monetary régimes—gold, paper, and those which are neither, but are some

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intermediate step, similar to gold in some regards, and similar to paper in others, as manifested in France by the laws of October 1936, March 1937 and June 1937. In the ordinary paper money régime, the separation between the monetary unit and the metal is complete and the purchasing power of gold is but a reflection of the purchasing power of money. Purchasing power of gold is of only secondary importance within a nation except to a few groups. International movements of gold depend not so much upon variations in its purchasing power as upon the highest price obtainable for it; also such movements serve as a vehicle for capital export. The flight of gold ("good money") from a paper country is an application of Gresham's law. Recent gold movements in France were effected mainly by the stabilization fund and in immediate response to factors other than those usually associated with gold movements in a gold economy, but ultimately dependent upon those same factors. This book is short and easy of comprehension, but Professor Aftalion has pointed out the significant features of the problem and has provided a valuable guide to an understanding of the French monetary policies during the period under review.—JAMES D. PARIS, Great Neck, N. Y.

The Organization of the English Customs System, 1696-1786, by Elizabeth E. Hoon (New York and London, D. Appleton-Century Company, 1938; ix, 322 pp. $4.00), covers a long-neglected but important subject, and gratitude is due both to Miss Hoon for choosing the subject for her doctoral dissertation and to the American Historical Association and the University of London for making its publication possible. Miss Hoon avoids the pitfall of attempting too much which entrapped her predecessors, Atton and Holland, whose two volumes on *The King's Customs* present a maze of information, usually entertaining and often valuable, but neither sufficiently complete nor systematically arranged to solve the problems of the scholar. By concentrating attention upon the ninety years from 1696 to 1786 she is able to intensify her analysis of the customs system and loses comparatively little by delimiting her field. The study commences twenty-five years after the Commissioners of the Customs took over from the "Customs Farmers" the task of collecting the revenue and enforcing the mercantile code, after they had had an opportunity to perfect their organization. It closes just before Pitt's Consolidation Act began the much-needed reforms which were to simplify the excessively cumbersome customs tariffs. The volume is not one for the general public, nor was it intended for them. As the introduction explains, it was planned "as a founda-

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tion for studies in the fields of British economic policy, British administrative history and institutional organization, Anglo-colonial commercial relations, and colonial economic conditions." The material which has been carefully compiled from Customs House papers, Treasury records, Parliamentary reports, contemporary manuscripts and handbooks is encyclopedic in nature, and the treatment is carefully designed to give an orderly portrayal of customs procedure. Beginning with a discussion of administrative problems, it proceeds to describe the efforts to centralize control, the organization of the port of London and of the outports, the struggles with problems of personnel, the customs routine in handling shipments, and the procedure in seizure cases. Such knowledge is essential for an understanding of the basic records upon which statistical knowledge of the mercantile era must rest and gives historians who undertake to pass upon complex questions of mercantile wisdom and colonial policy an opportunity to examine the mechanism upon which eighteenth-century statesmen had to rely. Most important of all is the opportunity which is opened for administrative studies. The American customs service, which in many ways has served as the model for other governmental agencies, was itself patterned after the English customs system as transplanted in colonial days. One's perspective is improved by reviewing the early steps in the evolution, by being reminded, for example, that attention to pensions and personnel problems are not modern innovations. There are, of course, many points upon which the reader would like more information, but no one book can cover them all, and Miss Hoon has provided a solid foundation upon which others may continue to build.—LAWRENCE A. HARPER, University of California.

A thought-provoking book—*The Natural History of Population* (New York, Oxford University Press, 1939; viii, 416 pp. $3.50)—by Raymond Pearl, will further stimulate interest in a subject now much before the public. The author is an eminent biologist, and a highly qualified statistician whose work is, as always, readable. The book reports the findings of a factual study of reproductive trends among 30,000 American women, a cross section of the urban and semi-urban people of the United States. Here is the new sociology at its best, the quantitative scientific method applied to the study of man. Five years of work, a staff interviewing personally 30,000 women, and, finally, a few short tables reporting the collected facts. They are facts quite incompatible with the recent writings of armchair populationists in the totalitarian states. An expanding popu-

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lation is not the result of an unusual physiological virility among a people. On the contrary, high birth rates in Western civilization are the accompaniment of poverty, isolation and ignorance. Physiologically, educated people in the higher occupational groups can and do have as many children as anyone else, provided only they desire children and marry early. Until the totalitarian state produces a civilization in which its finest products exhibit their desire for large families, its claim to reproductive virility is unfounded. In a book which presents such sound material, a little philosophizing on the side can be forgiven. This critic finds it difficult to agree that the colored primiparae (mothers of first-born children) come nearer than whites to the primitive animal pattern of reproduction. Such a conclusion flows from a comparison of Negroes with all whites. But if the comparison be made between Negroes and the white economic groups with whom they are comparable, there remains little difference in the birth rates of the two races. Perhaps the greater use of birth control by the Jews can be explained on the same basis. But these are minor points indeed, in which criticism of the author's reasoning fades before the charm of his presentation. A cultivated and erudite man enamored of his special field of study, Pearl cannot fail to touch a responsive chord in every layman who reads this book. And the student of population, if he faces honestly the facts deriving from this important study on contraception, will agree with the author's conclusion, that "In the population of the United States, at least, the fertility differentials relative to race (Negro vs. White) and to the three most important social class differentials (economic, educational, and religious) are due primarily to differences in the relative prevalence and effectiveness of the efforts made to prevent conception, correlatively aided by relative frequency and postponement of marriage and the practice of criminal abortion, and to practically nothing else."—FREDERICK OSBORN, New York City.

In *A Hundred Years of English Government* (New York, The Macmillan Co.; London, Gerald Duckworth & Co. Ltd., 1937; 468 pp.; $4.50; 15s.) Mr. K. B. Smellie, Lecturer in Public Administration at the London School of Economics, has produced a somewhat novel but very valuable book. Unlike the constitutional historian, Mr. Smellie is not concerned primarily with the emergence of those fundamental rules contained in constitutional law. Nor does he content himself with the narrative of political events or of the rise and fall of individual politicians and specific governments that constitute the staple of political history. His interest falls somewhere

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between these two. He examines the rules in actual operation and studies specific events, individuals and problems only to see what effect they have had on the process and machinery of government. To achieve this end he divides the century since the Great Reform into four periods: 1832-70, 1870-1914, 1914-18, since 1918. Within each of these periods he shows the relation of the state to the social and economic order of the time, traces such changes in the electoral system, cabinet, parties, parliamentary procedure, etc. as appeared, and concludes with a more detailed treatment of developments in the machinery and practice of administration. The usefulness of such a survey to students of government needs no demonstration. Mr. Smellie will be found to be a reliable and intelligent guide. He displays remarkable capacity to compress much detail in small compass without loss of perspective or interest on the reader's part. It is unfortunate that one's approval cannot extend to the proofreading and indexing. They are a disgrace to author and publisher. In one or two cases even, queries evidently addressed by author to printer have escaped elision throughout the whole process of manufacturing the book.—T. P. PEARDON, Barnard College.

The justification for the appearance of Professor H. Arthur Steiner's *Government in Fascist Italy* (New York and London, McGraw-Hill Book Company, Inc., 1938; xii, 158 pp. $1.50) is well stated in the editor's foreword: "There is in this country no dearth of publications on Fascism, but there is always room for a good book." Well written, well organized, and well documented, the volume answers most of the questions regarding Italian fascist life that are likely to occur to the college student or general reader. Considerable attention is paid to what, for want of a better term, may be called "fascist psychology". Professor Steiner believes that, on the basis of the extreme example of fascism, democracy should learn "how to reconcile individual liberty with the regulation and control of social affairs necessitated by the general welfare." He emphasizes the view that "there are differences of kind as well as of degree" between strong leadership in a democratic state and the absolute dictatorship inherent in fascist control. Regarding it as futile to apply nineteenth-century standards to current conditions, he evidently hopes that democracy may, before the close of the twentieth century, find a compatible standard of "political and economic obligation." *Government in Fascist Italy* is an intelligently written, readable and very useful book.—WALTER CONSUELO LANGSAM, Union College.

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Japan: Government—Politics, by Robert Karl Reischauer (New York, Thomas Nelson and Sons, 1939; 221 pp. $2.00), is a posthumous book. The author, one of the most promising of the small group of younger American scholars who are specializing on Japan, died from wounds received during an aerial attack on Shanghai in 1937. The work was only partially completed by Dr. Reischauer, and Mrs. Reischauer and Mr. Labatt-Simon have given it its final form. The little volume is avowedly not for the expert but for the average college student and intelligent man of affairs. It makes no effort to discover new facts. Its contribution is in the realm of interpretation and of synthesis. Dr. Reischauer endeavored first to show the factors peculiar to Japan which mold the political life of the country and which Westerners are in danger of overlooking. These factors are principles which rise out of the history of Japan. In part they are purely indigenous. In part they are from China, but they have been modified by their Japanese environment. They are summarized as follows: society is more important than the individual; all men are by nature unequal; politics are synonymous with religion; government by man is superior to government by law; the patriarchal family is the ideal state. From Japan's earliest past comes the idea that the Emperor is the descendant of the Sun Goddess, the earthly representative of the greatest of Japanese deities, and the head of the family of which all Japanese are members. From Confucianism is derived the conception of the Emperor as philosopher-king ruling through his virtue as the instrument of Heaven. Buddhism inculcates the view of the Emperor as a manifestation of the universal Buddha spirit. The peculiar features of Japanese political and social conceptions, so it is pointed out, have persisted into modern times and even in the most recent decades have had a dominant share in the operation of the machinery of government. In this introductory section is the chief contribution of the study. The major part of the volume is devoted to a brief summary of the present organization and structure of the government and of the functioning of that government under the constitution. The purpose has been to tell that story in the light of the traditional Japanese concepts which were outlined in the first part of the book. Dr. Reischauer and his literary executors have performed a most useful task. The contention that Japanese politics can be understood only in the light of the historical background peculiar to Japan is unassailable. If the book has a weakness it is in a failure always to point out in the details of recent political life the manner in which that background has been deter-

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minative. The hiatus between the introductory sections and the second part of the volume is, however, partly atoned for in an illuminating, though brief, concluding chapter. — K. S. Latourette, Yale University.

Before America Decides: Foresight in Foreign Affairs, edited by Frank P. Davidson and George S. Viereck, Jr. (Cambridge, Harvard University Press, 1938; xiv, 318 pp. $3.00), a substantial contribution to current thinking, is an outgrowth of *The Harvard Guardian's* leadership in facing present problems. The undergraduate editors have enlisted the coöperation of mature scholars, with a resultant blending of progressive elder thinking with youthful idealism and intelligence, for the editors have genuinely functioned. Their success should encourage young men in other colleges to similar endeavors. The work consists of a brief introduction by Abbott Lawrence Lowell, followed by three groups of four essays centering on the general themes of "World Background", "American Background", and "The Issue". The essay on "Nationalism", by Hans Kohn, concludes with a hopeful hint that even as the Holy Alliance failed a century ago, so current fascism may fail "to stem the progress of humanity". "European Alignments and the United States", by Reginald Henry Phelps, beholds a present disposition to view the complications of the day as "a simple conflict of good and evil". Arthur Norman Holcombe, in "American Policy and the Far East", casts light upon Oriental thinking, especially upon Japan's indignation at Chinese defection from Confucian morality without compensating adoption of Western ethics. "It was inevitable that patriotic Japanese should feel grave misgivings concerning the adoption of such a revolution." The first cycle terminates with a brief estimate by Payson Sibley Wild, Jr., of "International Law Today", in which the reader is encouraged to be of good cheer, for it is certain that international law still lives. Opening the second series with "Main Trends of American Foreign Policy", Samuel Flagg Bemis gives an excellent résumé of recent trends, and heartily endorses the present disposition to liquidate the Philippine venture, the most ill-starred in the entire history of American policy. In "Economic Forces", Phillips Bradley holds that "any concerted policy designed to avoid future entanglements must clearly take them into account". "Strategic and Military Considerations", by George Fielding Eliot, is reassuring to American defensive confidence, though advocating early construction of a Nicaraguan Canal. In "Inter-American Relations", Clarence Henry Haring notes a recent improvement,

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calls for reciprocity in good-neighborliness, and emphasizes the necessity for joint defense of the Americas. Part Three, with discussions of "Collective Security" by Clyde Eagleton, "Neutrality" by Edwin Montefiore Borchard, "Planning a Policy" by Philip Caryl Jessup, and "Public Opinion and Foreign Policy" by Fritz Morstein Marx, is the most vital portion of the book, because it grapples with immediate, burning issues. Whether or not he concurs in all conclusions, the reader will recognize the sound reasoning behind them. The work contains an appendix of significant documents, and a worth-while bibliography. Its editors and contributors have rendered a public service.—LOUIS MARTIN SEARS, Purdue University.

C. A. M. Ewing's *The Judges of the Supreme Court, 1789-1937* (Minneapolis, The University of Minnesota Press, 1938; 124 pp. $2.00) is a critical examination of popular concepts as to what constitutes fitness for Court membership against the precedents of the past one hundred and forty-eight years. The book is of course occasioned by the somewhat specious furore over the Court reform proposal of 1937. It examines recent arguments in the light of history and finds them wanting. Professor Ewing regards the Court as the second line of defense for the status quo in every political revolution in our history. Naturally then he is not surprised to find that Court appointments are not and have not been totally disassociated from political considerations. Examination of the prior public-service records of Court appointees, especially in non-judicial posts, buttresses this conclusion. Numerous examples of the interrelation of politics and the bench are cited, among which such flagrantly political appointments as those of David Davis and Roscoe Conkling inexplicably fail to appear. Much detailed information, largely derived apparently from Warren's *The Supreme Court in United States History* and the *Dictionary of American Biography*, is given on rejections, postponements, withdrawals, educational background, and representation of states and sections, much of which is likely to strike the casual reader as partly irrelevant, partly undigested. Examination of the appointment age, however, clearly emphasizes the marked upward increase, both floor and ceiling, of the age level of appointees since the Civil War. One of the statistical graphs, which are by no means the least instructive feature of the book, makes the point (p. 69) that presidential ages have been decreasing while those of Supreme Court appointees have been substantially increasing. Another shows (p. 85) a decrease of aggregate public service of appointees since 1860, which is particularly interesting when juxtaposed (as the

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author fails to do) against this simultaneously increasing age level. Resignations from the Court are discussed, but the important connection between the marked increase in such retirements since 1869 and the passage of the Judiciary Act of that year is entirely overlooked. The shibboleth of prior judicial experience as a requisite for appointment is properly called into question by naming noted justices who came to the Court without such experience, though again the impressive fact that every Chief Justice from Marshall to White had no such background is ignored. As the purpose of the book is wholly admirable, its material important, and its approach factual and unbiased, it becomes a matter of real regret that the treatment seems at times distinctly inadequate.—CLIFFORD L. LORD, Columbia University.

Bolívar and the Political Thought of the Spanish American Revolution by Víctor Andrés Belaúnde (Baltimore, The Johns Hopkins Press, 1938; xxiv, 451 pp. $3.50) is a vigorous and interesting interpretation of conflicting ideas and constitutional developments during a troubled era. The author successfully brings out the relation between theoretical controversies and the realities of politics. The volume opens with an able survey, based on wide acquaintance with the literature, of the domestic and foreign influences which ushered in the independence movement in Spanish America. A tendency toward nationalism in the chief administrative divisions of the empire is strongly emphasized (pp. 11-15, 103, 119). Brief treatments of political trends in La Plata, Chile and Mexico are interwoven with the main theme: the evolution of the political ideas of Bolívar and their influence on the constitutional development of Venezuela, Colombia, Peru and Bolivia. Dr. Belaúnde traces the Liberator's ideas from his early "Jacobinism", through his attack on "Federalism", to what he claims to be the climax of Bolívar's political thought, the unified aristocratic republic organized at Angostura in 1819. The subsequent Bolivian constitution of 1826 and the plan for an Andean Federation are considered less realistic efforts to combine irreconcilable extremes, and as paving the way toward the hesitation and confusion which characterized Bolívar's last years. The author condemns arbitrary personal rule, but seems to lean toward a corporative form of state dominated by an *élite* (see pp. 181-3). He considers stability in accordance with law the basic desideratum in government, and his interpretation of Bolívar and his era is based on this point of view. The book is written largely from primary sources, including some manuscript material, and the many Peruvian newspapers and

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pamphlets used add greatly to its value. It reads well, though it is a translation, and misleading English diction occurs only occasionally (pp. 207, 214, 218, 224, 155). A few flights of rhetoric (pp. 120, 127-8, 134) mar a style that is scholarly and energetic. The author's comparisons and generalizations are stimulating and judicious, though some may feel that the latter are occasionally strained, especially when dealing with La Plata. Dr. Belaúnde has combined in this volume a valuable historical survey of the constitutional history of this period and a learned and incisive, though subjective, interpretation of Bolívar.—CHARLES C. GRIFFIN, Vassar College.

Professor William Orton's *Twenty Years' Armistice, 1918-1938* (New York and Toronto, Farrar & Rinehart, Inc., 1938; xiv, 308 pp. $1.90) represents an effort to "take stock" of the world situation a score of years after the first Armistice Day. The book demonstrates clearly the author's thesis that the first decade following the War "brought general economic disaster", while in the second, "the political superstructure began to crack." Containing in much-abbreviated form the conventional materials found in any of the general texts on post-war Europe, and based on little formal research, the volume is liberal in spirit and original in organization. The main emphases in this topical-chronological recital are international economic difficulties, minorities problems, the search for security, and the conflict of individualistic and anti-individualistic ideologies. There are no standard chapters on any of the Great Powers as such and no discussions of internal national developments except in so far as they were directly affected by or themselves affected international relations. The chief criticism which may be leveled at this approach is, interestingly enough, brought out by the author himself when he maintains that "not the least of our misfortunes during this twenty years' armistice has been our abnormal preoccupation with the issues of international politics presented always in the most dramatic terms. We have lived so long in an atmosphere of chronic crisis that we have come unconsciously to demand excitement from this most dangerous of all spheres; and the popular press, the radio and the cinema have eagerly responded to the demand." For the rest, Dr. Orton counsels general patience and humility, the application of intelligence to the solution of international problems, and an increasing flexibility in adapting the race to the rapidly changing facts of human existence and human association. He presents his arguments so sincerely and so convincingly that one cannot but share his faith that these, in time, will come.—WALTER CONSUELO LANGSAM, Union College.

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Professor Allan H. Gilbert's thesis in *Machiavelli's* Prince *and Its Forerunners:* The Prince *as a Typical Book* de Regimine Principum (Durham, Duke University Press, 1938; xiii, 266 pp. $3.00), as is made clear by his subtitle, is that Machiavelli's *The Prince* was not a book born out of the blue, that it was indeed in the regular tradition of political writing. He demonstrates the point by taking up *The Prince* chapter by chapter, showing with detailed scholarship how it conformed to the general pattern of a well-known *genre* and in what respects it showed novelty in emphasis or interpretation. The undertaking is probably worth while, even though the demonstration is labored, particularly since one of the conclusions reached is that Machiavelli horrified his contemporaries and immediate successors because the similarity in form with works usually deferential, entertaining or moralizing emphasized the difference in content and disappointed legitimate expectations. In his summing up, Professor Gilbert argues that continuity with past treatments and borrowing from precursors, far from diminishing Machiavelli's claims to fame as an original thinker, increase them, since it was essentially in his power of putting new wine into old bottles that he revealed his consummate skill: the difference in spirit between Machiavelli's realism, based on practical experience, and the outlook of those who simply rewrote well-established ideas, without any genuine sense of contemporary realities and without profound moral purpose, is a sufficient testimony to his creative power. Nevertheless, Professor Gilbert's stressing of the typical character of the work is in certain ways misleading. It may be true that "few of the ideas expressed in *The Prince* are altogether novel" (p. 234), but it is notable that the ideas which Gilbert acknowledges may be so, such as the differentiation between public and private morality, the introduction of the whole issue of ruling conquered territory, and the emphasis on the rôle of fortune, are the very ideas primarily associated with the name of the great Florentine and most influential on subsequent thought. Moreover, emphasis on Machiavelli's debt to the past obscures a sound thesis: *The Prince* can perhaps most justly be regarded as a transitional work, constituting a bridge between books for the advice and entertainment of rulers written under the aegis of medieval Christian ethics and those numerous works of criticism, humble petition for reform, and detailed plan for the government of their realms by kings so common in the seventeenth and eighteenth centuries. Machiavelli puts new content into old form. His successors in due course abandoned the form but kept the content. —THOMAS I. COOK, University of California at Los Angeles.

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To have governed the state of New York during twenty-one of its first twenty-seven years was no mean achievement for any man, and *His Excellency George Clinton: Critic of the Constitution* (New York, The Macmillan Company, 1938; xv, 325 pp. $3.50) by E. Wilder Spaulding at last brings this important figure full-length treatment. And what a biography it is! Doctor Spaulding has evidently read just about everything in manuscript and in print that has the remotest possible bearing on his subject. (One's only regret is that such a competent piece of research could not have been undertaken before the tragic New York State Capitol fire of 1911 had swept away forty-two out of fifty-two volumes of the Clinton Papers.) Clinton emerges from this work as one of the few leaders of his time to end his political career as he had begun it, still retaining a refreshing confidence in democratic institutions. This consistency won him a popularity with the masses which few men have ever enjoyed, but unfortunately he did not wield the pen skilfully, was but a cold speaker, and appeared a bit austere and even parsimonious in his daily life. Because of these failings, it was Jefferson, not Clinton, who became President in 1800, and though the New Yorker was elected Vice-President in 1804, he was too old to win the nomination for the higher office four years later. In tracing Clinton's long life (1739-1812), Doctor Spaulding throws much new light on provincial, state and national affairs. Not the least of his contributions is the extension to a wider sector of New York and national politics of his upstate *vs.* metropolitan analysis, used to such good effect in his *New York in the Critical Period.* The book is also written with distinct charm and contains bright touches, such as the description of the good Governor's chin, which "had developed a whole hierarchy of folds." There are a few imperfections in the book which perhaps should be pointed out. It is doubtful whether Clinton's claims to lands in the New Hampshire Grants were large enough (he received no part of the $30,000 paid the New York claimants by Vermont in 1799) to account for his determined opposition to Vermont; a natural concern for the rights of the state which he governed and the influence of "the cautious and smooth" James Duane and other interested proprietors probably had more to do with the Governor's stand. Failure to explain the Trespass Act of 1783 (p. 110) would mislead one as to its provisions; George Croghan is unjustly accused of being a Tory (p. 125); Duane made no claim that he had a right to become U. S. Senator in 1789 (p. 190); George Washington's trip of 1783 did not include a visit to Duanesburgh (p. 232);

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and Laurance preceded Troup as district judge (p. 254). But all of these are minor matters, which in no way detract from the worth of a finely executed biography.—EDWARD P. ALEXANDER, Cooperstown, N. Y.

Augmenting the scant information given in a few lines of the textbooks, Dr. David A. Lockmiller has written, in *Magoon in Cuba: A History of the Second Intervention, 1906-1909* (Chapel Hill, The University of North Carolina Press, 1938; xiii, 252 pp. $3.00), the first detailed account of America's second experience as Cuba's guardian angel. Although Charles E. Magoon's official position was that of a Cuban officer under the Cuban constitution, still the guiding spirit of the provisional government was American. It was an "Americanism" expressed in terms of good laws, public works, roads, sewers and sanitation. Magoon, industrious and earnest, represented the best in the American tradition of foreign service. Yet in light of subsequent developments, his accomplishments seem insignificant. This does not diminish the importance of Lockmiller's book, which amply records Magoon's services. Like Hercules, he was set many tasks, which he performed. Like Job, he bore many afflictions, not the least of which were charges of graft and fraud. Such accusations Lockmiller fully refutes. Magoon appointed commissions and committees, approved recommendations and promulgated laws, but the actual work was done by a few American administrators and a small group of Cubans. Magoon's personal achievements do not make exciting narrative, but those who wish the facts about the Intervention will find them here. The personalities of some of Magoon's Cuban associates might have been developed further, and the Cuban rural press might have supplied some useful materials. In fact, the chief weakness of the volume lies in its scant treatment of Cuba's rôle in her own development. The analysis of party conflict in Cuba will hardly satisfy even those whose main interest is Magoon. The grim story of Cuban politics cannot be explained solely on such grounds as the Liberals' job-hunger as a cause of the August Rebellion (p. 34). The authorship of the Platt amendment, definitely attributed to Elihu Root, should have been further investigated. Except for this, the book is thoroughly satisfactory. The chapter on the Advisory Law Commission is an acme of condensation. Magoon's integrity and American good faith are amply demonstrated.—HAROLD J. JONAS, New York, N. Y.

Before the student of the nineteenth-century working-class movement of England goes far into his field, he is impressed by the politi-

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cal and religious affiliations of its leaders. They are almost to a man Liberals in politics and non-conformists—especially Methodists—in religion. The scholarly investigation of Dr. Robert F. Wearmouth—*Methodism and the Working-Class Movements of England, 1800-1850* (London, The Epworth Press, 1937; 289 pp. 8s. 6d.)—deals with the religious phase of this question. The author's own words, "Methodism was a kind of Radicalism in the religious world, while Radicalism was a sort of Methodism in the political sphere", best express the theme of the volume. Methodism is treated as a democratic movement. Its decentralized form of organization, the institution of the lay preacher, the local classes and particularly the class leader afforded an opportunity not only for active participation but also for conspicuous leadership among the very humblest of the flock. That such egalitarian tendencies in the domain of religion would inevitably strike a responsive note in those who were striving to democratize the political institutions is amply proved in the chapters devoted to the Radical organizations of workers. The author's treatment of these societies constitutes the bulk and the best part of this useful volume. Their form of organization and propaganda technique was deliberately copied from the Methodists. Despite the leadership's prohibition and warnings of inevitable disaster, if Methodists participated in the Radical agitation of the period, some of the moving spirits in this agitation were active leaders in the Methodist polity. Five of the six Dorsetshire Labourers sentenced to transportation in 1834 for union activity were Methodists, while three of these occupied the position of local preachers. Throughout the volume the enormous research of the author is clearly evident. Dr. Wearmouth used extensively Parliamentary reports, the Francis Place collection, and the contemporary periodical literature. Even the most ephemeral journals of the period of the Reform agitation did not escape his scrutiny. The classified bibliography at the end of the volume will prove a valuable guide to the student. In spite of a style far from literary, and occasionally involved beyond the point of clarity, the volume merits a wide audience. The student of the British Labor movement must find room for it on his shelf.—EDWARD M. COHEN, Brooklyn, N. Y.

The French War Machine (London, George Allen & Unwin Ltd.; New York, Peter Smith, 1937; 221 pp. 8s. 6d.; $2.25) by Shelby C. Davis is a timely contribution to the relatively scant literature of post-World War military politics. The aim of the volume "is to give a picture of what security seemed like to the various [post-war]

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Governments of France and the steps they took, in collaboration with their military experts, to find a solution both in the political and the military spheres." This purpose is carried out in popular but reliable fashion in eleven brief chapters. The subjects dealt with include such things as the "Bid for Babies", physical and pre-military training, conscription, the colonial army and colored troops, air and naval developments, and *matériel*. The treatment of the element of personnel is far more thorough and satisfactory than that of *matériel*, and it is regrettable, at least from the viewpoint of those who might wish to pursue the subject further, that Dr. Davis gives no direct indication of the sources which he used in compiling his useful work. Following his summary of the evolution of France's military preparedness since 1918, the author briefly considers the changeability of international relations and makes the interesting point that, "if one supposes the French Premier inquiring of his military advisers if France is ready, the only reply could be, 'Ready for what?' and it would be extraordinarily difficult for him to answer." And then he points out that, in effect, no conscientious military adviser could do more than assure the prime minister "that it is highly probable that the French armed forces could successfully prevent a repetition of the disaster of August 1914 and maintain the integrity of the territory against invasion by land." Hence, says Dr. Davis, France has recently very largely lost freedom of action on the continent of Europe, although she remains one of the strongest military powers.—WALTER CONSUELO LANGSAM, Union College.

The time has come for a renewed expression of gratitude to the Council on Foreign Relations for its continued publication of that convenient and useful annual record of parliaments, parties, and press organs entitled *Political Handbook of the World 1939* (New York, Harper and Brothers, 1939; 207 pp. $2.50). Again capably edited by Walter H. Mallory, the volume gives, in compact and readable form, the capital, area, population, sovereign, government composition, and party programs and leaders in each of more than seventy states and political units from Albania to Yugoslavia. In addition, there are listed, for each country, the chief newspapers and periodicals with the names and political affiliations of their editors or owners. Sometimes—would that it were more often—the estimated circulation figures are also included. The book is devoted entirely to the presentation of facts and is devoid of bias of any kind. The summaries of party policies for the leading political groups throughout the world and the citation of the full names of prominent indi-

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viduals are of especial value. The only criticism that may be ventured by one who eagerly awaits the annual appearance of the volume is that the editor is reticent about indicating his sources. None of the information contained in the handbook is of a type that might be misinterpreted by even the most rabid nationalist in any country and there would seem to be no valid reason why at least the most frequently used references should not be cited.—WALTER CONSUELO LANGSAM, Union College.

Statistics on minerals in French colonial possessions are reported in *Annuaire, Bureau d'Etudes Geologiques et Minières Coloniales* (Paris, 1937; 525 pp.). Unlike our own government minerals yearbook this gives few details about individual producing districts, containing instead operating regulations, a list of operating companies, and an alphabetical list of company officials, as well as gross production figures for the various mineral substances, and French imports and exports.—THOMAS T. READ, Columbia University.

"National adventures", said Emilio Castelar, "usually end as the adventures do in the immortal work of our own Cervantes, in great catastrophes." In *Greece's Anatolian Venture—And After* (London, Methuen & Co. Ltd.; Toronto, S. J. Reginald Saunders, 1937; xvi, 240 pp. 10s. 6d.; $3.50) A. A. Pallis shows that the Greek occupation of Smyrna in 1919, judged by its tragic consequences, was such a national adventure. He condemns not only the bold and ambitious move made by Venizelos, but also the action of the representatives of the principal Allied Powers, at whose invitation the adventure was undertaken. Even President Wilson is criticized as one indirectly responsible for the Greek tragedy; had he approved the proposal to give Eastern Thrace to Greece, he would thereby have satisfied the Greeks and they would not have ventured far from their native shores. Of the many statements prefixed by "if" this one is probably the least tenable, for the reason that Smyrna was offered to Greece by Sir Edward Grey early in 1915, whereas the Thracian offer was put to paper some four years later. In his criticism of the Allied statesmen the author follows the beaten track; the promise made by them in unanimity failed to secure unanimity in its execution. The repetition of such patent truths does not substantiate his contention that Greece was flouted by her allies. His first-hand knowledge of internal politics (in which he was a participant as a Venizelist and at one time as Deputy-Governor of Salonica) enables him to tell a comprehensive story of Greece's neutrality. In his estimate of Greek leaders King Constantine is vindicated, and the

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present dictator-premier, Metaxas, is praised for his war-time views on neutrality, while the "self-willed" Venizelos, who "did not like to take back" anything he had said, is burdened with most of the responsibility for his country's unfortunate adventure. Though quite outspoken in his judgment of his countrymen, the author seems to have nothing but praise for the Nemesis of the Greeks, Mustapha Kemal (later known as Kemal Ataturk), who in reality was just another, if a luckier, adventurer.—A. O. SARKISSIAN, University of Illinois.

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